2222.

SUPREME COURT OF THE UNITED STATES.

No. 160.

THE UNITED STATES, APPELLANTS,

v.

DOMINGO AND VICENTE PERALTA.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

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Transcript of the proceedings in Case No. 4, on the docket of the United States Land Commission, and No. 100 in the U. S. District Court for the Northern District of California. Vicente Peralta et al., claimants, *v.* The United States, defendant, for the place named San Antonio.

Office of the Board of Commissioners to Ascertain and Settle the Private Land Claims in the State of California.

Be it remembered, That on this twenty-first day of January, Anno Domini one thousand eight hundred and fifty-two, before the Commissioners to ascertain and settle the private land claims in the State of California, sitting as a Board, in the City of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Vicente Peralta et al., for the place named "San Antonio," was presented and ordered to be filed and docketed with No. 4, and is as follows, to wit:

(Vide page 11 of this transcript.)

Upon which petition the following subsequent proceedings were had, in their chronological order, to wit:

San Francisco, February 12, 1852.

In case No. 4, Vicente Peralta et al., the deposition of Antonio Pacheco, a witness in behalf of the claimants, taken before Commissioner James Wilson, was filed.

(Vide page 11 of this transcript.)

San Francisco, February 25, 1852.

In the same case, the deposition of José Fernandez, a witness in behalf of the claimants, taken before Commissioner Hiland Hall, was filed.

(Vide page 16 of this transcript.)

San Francisco, March 18, 1852.

In the same case, the deposition of Salvio Pacheco, a witness in behalf of the claimants, taken before Commissioner Harry J. Thornton, was filed.

(Vide page 17 of this transcript.)

San Francisco, April 21, 1852.

In the same case, the deposition of Vicente Peralta, a witness in behalf of Juan José and Victor Castro, contestants of the claim of said Peralta, taken before Commissioner Harry J. Thornton, was filed.

(Vide page 18 of this transcript.)

	Original.	Print.
Conveyance to Chipman et al., marked H,	89	76
Copy of Will of Louis Ma. Peralta, marked M,	93	79
Translation of Will, marked "M," "M,"	96	81
Letter from Luis Peralta to Captain Luis Arguello, marked N,	99	84
Translation of Letter, marked "A," "A,"	100	85
Extract from Book of Titles for 1844, marked "O,"	101	86
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Index to Register Book, 1828, marked Q,	113	96
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Deposition of A. W. Van Schmidt,	243	197
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Office of the Board of Commissioners to Ascertain and Settle the Private Land Claims in the State of California.

Be it remembered, That on this twenty-first day of January, Anno Domini one thousand eight hundred and fifty-two, before the Commissioners to ascertain and settle the private land claims in the State of California, sitting as a Board, in the City of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Vicente Peralta et al., for the place named "San Antonio," was presented and ordered to be filed and docketed with No. 4, and is as follows, to wit:

(Vide page 11 of this transcript.)

Upon which petition the following subsequent proceedings were had, in their chronological order, to wit:

San Francisco, February 12, 1852.

In case No. 4, Vicente Peralta et al., the deposition of Antonio Pacheco, a witness in behalf of the claimants, taken before Commissioner James Wilson, was filed.

(Vide page 11 of this transcript.)

San Francisco, February 25, 1852.

In the same case, the deposition of José Fernandez, a witness in behalf of the claimants, taken before Commissioner Hiland Hall, was filed.

(Vide page 16 of this transcript.)

San Francisco, March 18, 1852.

In the same case, the deposition of Salvio Pacheco, a witness in behalf of the claimants, taken before Commissioner Harry J. Thornton, was filed.

(Vide page 17 of this transcript.)

San Francisco, April 21, 1852.

In the same case, the deposition of Vicente Peralta, a witness in behalf of Juan José and Victor Castro, contestants of the claim of said Peralta, taken before Commissioner Harry J. Thornton, was filed.

(Vide page 18 of this transcript.)

San Francisco, April 23, 1852.

In the same case, the deposition of Francisco Arce, a witness in behalf of the contestants, Juan José and Victor Castro, taken before Commissioner Harry J. Thornton, was filed.

(Vide page 19 of this transcript.)

San Francisco, May 11, 1852.

In the same case, the deposition of Joaquin J. Castro, a witness in behalf of Juan José and Victor Castro, contestants in this case, taken before Commissioner James Wilson, was filed.

(Vide page 21 of this transcript.)

San Francisco, May 14, 1852.

In the same case, the deposition of Manuel Baca, a witness in behalf of Juan José and Victor Castro, contestants in this case, taken before Commissioner James Wilson, was filed.

(Vide page 25 of this transcript.)

San Francisco, May 18, 1852.

In the same case, the counsel for the claimants filed the following motion, to wit:

(Vide page 121 of this transcript.)

In the same case, on motion of the counsel for the claimants, leave was granted to file copies of two original documents, and to amend the petition accordingly, and the case set for hearing on Tuesday, 1st June.

San Francisco, May 21, 1852.

In the same case, the deposition of Antonio Pacheco, a witness in behalf of the claimants, taken before Commissioner James Wilson, was filed.

(Vide page 42 of this transcript.)

San Francisco, May 24, 1852.

In the same case, the deposition of Rodman Gibbons, a witness in behalf of the United States, introduced by the Law Agent, taken before Commissioner James Wilson, was filed.

(Vide page 27 of this transcript.)

In the same case, the deposition of Andrew Moon, a witness in behalf of the United States, introduced by the Law Agent, taken before Commissioner James Wilson, was filed.

(Vide page 28 of this transcript.)

San Francisco, May 25, 1852.

In the same case, on motion of the counsel for the contestants, Juan José and Victor Castro, leave was granted to file an amended petition to intervene in accordance with the additional regulation adopted by the Board February 9, 1852.

In the same case, the deposition of N. B. Smith, a witness in behalf of the United States, introduced by the Law Agent, taken before Commissioner Harry J. Thornton, was filed.

(Vide page 29 of this transcript.)

San Francisco, May 26, 1852.

In the same case, the amended petition of Juan José and Victor Castro was filed, by leave obtained, and is as follows, viz.:

(Vide page 121 of this transcript.)

San Francisco, May 27, 1852.

In the same case, the deposition of William Patten, a witness in behalf of the United States, introduced by the Law Agent, taken before Commissioner James Wilson, was filed.

(Vide page 37 of this transcript.)

In the same case, the deposition of Nicholas Berreyesa, a witness in behalf of the United States, introduced by the Law Agent, taken before Commissioner James Wilson, was filed.

(Vide page 30 of this transcript.)

In the same case, the deposition of Samuel H. Robinson, a witness in behalf of the United States, introduced by the Law Agent, taken before Commissioner James Wilson, was filed.

(Vide page 34 of this transcript.)

In the same case, the deposition of F. J. Keeper, a witness in behalf of the United States, introduced by the Law Agent, taken before Commissioner James Wilson, was filed.

(Vide page 35 of this transcript.)

In the same case the deposition of William Abbey, a witness in behalf of the United States, taken before Commissioner James Wilson, was filed.

(Vide page 36 of this transcript.)

San Francisco, May 31, 1852.

In the same case the deposition of Mariano Guadalupe Vallejo, a witness in behalf of the claimants, taken before Commissioner Harry J. Thornton, was filed.

(Vide page 39 of this transcript.)

In the same case, the deposition of Mariano G. Vallejo, a witness in behalf of the claimants, taken before Commissioner Harry J. Thornton, was filed.

(Vide page 38 of this transcript.)

In the same case, the Secretary filed original and the translation of Exhibit "A," annexed to the deposition of Salvia Pachecho, a witness in behalf of the claimants, taken before Commissioner Harry J. Thornton, on the 18th March, 1852, which translation is in the words and figures as follows, to wit:

(Vide page 81 of this transcript.)

In the same case, the Secretary filed the translation of Exhibit "A," annexed to the deposition of Mariano Guadalupe Vallejo, a witness in behalf of the claimants, taken before Commissioner Harry J. Thornton, on the 31st May, 1852, which translation is as follows, to wit:

(Vide page — of this transcript.)

San Francisco, June 1, 1852.

Case No. 4, Vincete Peralta et al., called and continued.

San Francisco, June 3, 1852.

In the same case, the deposition of B. R. Keyser, a witness in behalf of the claimants, taken before Commissioner Harry J. Thornton, was filed.

(Vide page 41 of this transcript.)

In the same case, the deposition of B. H. Holiday, a witness in behalf of the claimants, taken before Commissioner Harry J. Thornton, was filed.

(Vide page 39 of this transcript.)

San Francisco, June 17, 1852.

The same case (No. 4), called by consent of the parties on the Trial Docket argument, by Mr. Strode, one of the counsel for the claimants, opened and continued to-morrow, 11 o'clock, A.M.

In the same case, Mr. Carpentier, counsel for Juan Jose and Victor Castro, contestants, filed a motion on affidavit for continuance, and in the following words, to wit:

(Vide page 119 of this transcript.)

Which having been overruled, the argument by Mr. Strode resumed.

In the same case, the counsel for the claimants filed an argument relative to the prosecution of this case, and is as follows, to wit:

(Vide page 119 of this transcript.)

In the same case, the counsel for the claimants filed an agreement entered into with the U. S. Law Agent, as regards its boundaries, and is as follows, to wit:

(Vide page 118 of this transcript.)

In the same case, the counsel for the claimants filed an agreement between the claimants as to the limits of their respective claims, and is as follows, to wit:

(Vide page 118 of this transcript.)

In the same case, the counsel for the claimants filed a copy of Luis Maria Peralta's last will and testament in Spanish, and a translation of it in English, which is in the words and figures as follows, to wit:

(Vide page 93 of this transcript.)

San Francisco, June 18th, 1852.

The same case (No. 4) called; argument by the counsel for the claimants resumed and concluded, and the case continued to Tuesday next, June 22d, 1852, at 12 M.

San Francisco, June 22d, 1852.

The same case (No. 4) called; argument by the U. S. Law Agent opened, and after some pertinent remarks, moved the Board for further time to evidence in behalf of the United States. Case continued for further argument.

San Francisco, July 6th, 1852.

The same case (No. 4) called, and on motion of Mr. Wilson, attorney for Juan Jose and Victor Castro, contestants in this case, was continued to to-morrow, at eleven o'clock A.M.

San Francisco, July 7th, 1852.

Case No. 4 called; argument by Mr. Wilson, counsel for Juan Jose and Victor Castro, contestants, in their behalf, and the case continued for further argument to-morrow, 11 o'clock A.M.

San Francisco, July 8th, 1852.

Case No. 4 called; argument by Mr. Wilson, counsel for the contestants, resumed and concluded, and answer by the U. S. Law Agent opened, and case continued until to-morrow, at 11 o'clock A.M.

San Francisco, July 9th, 1852.

Case No. 4 called; argument by the U. S. Law Agent resumed, and case continued for further argument until to-morrow, at 11 o'clock A.M.

In the same case, the U. S. Law Agent filed authenticated copies of three Spanish documents on file, in the office of the U. S. Surveyor-General for California, as evidence in behalf of the United States, which were ordered by the Board to be put on file with the papers in this case, and marked as Exhibits N, O, and P, be spread on the records, and they are as follows, to wit:

(Vide pages 99, 101, 103 of this transcript.)

San Francisco, July 10th, 1852.

Case No. 4 called; argument by the United States Law Agent resumed, and case continued for further argument on Monday next, at 11 o'clock A.M.

San Francisco, July 12th, 1852.

Case No. 4 called; argument by the United States Law Agent resumed and concluded, and case continued for further argument on Wednesday next at 11 o'clock A.M.

San Francisco, July 14th, 1852.

Case No. 4 called; argument by Mr. Irving, counsel for the claimants, opened, and case continued for further argument on to-morrow, at 11 o'clock A.M.

San Francisco, July 15th, 1852.

Case No. 4 called; argument by Mr. Irving, counsel for the claimants, resumed and concluded, and the case continued for further argument on to-morrow, at 11 o'clock A.M.

In the same case, the counsel for the contestants, Juan Jose and Victor Castro, presented authenticated copies of three documents on file in the office of the Recorder of Contra Costa, State of California, as evidence in their behalf in this case, which with consent of the parties litigant, and the sanction of the Board, were ordered to be filed among the papers in the case, and to be spread on the records as Exhibits F, G, and H, and are as follows, to wit:

(Vide pages 83, 85, and 89 of this transcript.)

In the same case, deposition of Antonio Maria Castro, a witness in behalf of the claimants, taken before Commissioner James Wilson, on the 3d July, 1852, was filed, with the consent of the parties litigant:

(Vide page 46 of this transcript.)

San Francisco, July 16th, 1852.

Case No. 4 called; argument by Mr. Carpentier in behalf of Juan Jose and Victor Castro, contestants, resumed and concluded, and the argument by Mr. Jones in behalf of Antonio Peralta and Ignacio Peralta, two of the claimants in this case, opened, and case continued for further argument on to-morrow at 11 o'clock A.M.

San Francisco, July 17th, 1852.

Case No. 4 called; argument by Mr. Jones in behalf of Antonio Peralta and Ignacio Peralta, two of the claimants in this case, resumed and concluded, and the case taken under advisement by the Board.

In the same case, the counsel for Antonio Peralta and Ignacio Peralta, two of the claimants in this case, presented authenticated copies of two Spanish documents on file in the office of the United States Surveyor-General for California, which copies, with the consent of the parties litigant, and the sanction of the Board, were ordered to be filed as evidence, marked as Exhibits Q and R, and to be spread on the records.

(Vide pages 113 and 115 of this transcript.)

San Francisco, July 21st, 1852.

In the same case, the United States Law Agent filed an agreement between the parties litigant, relative to the admission of evidence, which is in the words following, to wit:

(Vide page 123 of this transcript.)

San Francisco, August 4th, 1852.

In the same case, the parties litigant submitted to the Board an evidence on behalf of the claimants, exhibits marked B, C, and D, heretofore filed with the petition in this case, to wit, on the 21st January, 1852, which were ordered to be spread on the records.

(Vide pages 53, 64, and 66 of this transcript.)

San Francisco, August 11th, 1852.

In the same case the Secretary filed translations of four Spanish documents, heretofore filed on the 9th and 17th July, 1852, as evidence, being marked Exhibits N, O, P, Q, which translations are marked NN, U, PP, and T, and are as follows:

(Vide pages 100, 102, 107, and 114 of this transcript.)

San Francisco, August 12th, 1852.

In the same case, the Secretary filed the translation of a Spanish document, heretofore filed, on the 17th July, 1852, and marked Exhibit R, which translation being marked V, is in the words and figures as follows, to wit:

(Vide page 117 of this transcript.)

San Francisco, August 14th, 1852.

Case No. 4 was called and continued for further evidence and argument.

In the same case, on motion of the counsel for Ignacio Peralta

and Antonio Peralta, ordered that their names be stricken out from the petition No. 4, and their claims rest on their respective petitions Nos. 273 and 274 on the docket of this Board, for portions of the Rancho of San Antonio, and that this be done without prejudice; and that the testimony heretofore taken in No. 4 shall, so far as applicable, apply to all the said petitions.

In the same case, on motion of the counsel for the claimants, the following order was made, to wit:

(Vide page 124 of this transcript.)

San Francisco, December 17th, 1852.

In the same case, the deposition of Jose Maria Amador, a witness in behalf of the claimants, taken before Commissioner Harry J. Thornton, was filed.

(Vide page 47 of this transcript.)

San Francisco, January 11th, 1853.

In the same case, the counsel for the claimants filed the following agreement, to wit:

(Vide page 125 of this transcript.)

San Francisco, January 13th, 1853.

In the same case, the deposition of Jose de la Rosa, a witness in behalf of the claimants, taken before Commissioner Harry J. Thornton, was filed.

(Vide page 49 of this transcript.)

San Francisco, January 14th, 1853.

In the same case, the deposition of Jose de la Santos Berreyesa, a witness in behalf of the claimants, taken before Commissioner Harry J. Thornton, was filed.

(Vide page 50 of this transcript.)

San Francisco, Jan. 28th, 1853.

In the same case, the counsel for the claimants filed the affidavit of Ignacio Peralta, a witness in behalf of the claimants, attested by Edsen Adams, a Justice of the Peace of the County of Contra Costa, State of California, was filed as evidence.

(Vide page 126 of this transcript.)

San Francisco, August 2d, 1853.

On motion of the United States Law Agent, case No. 4 was ordered to be placed on the trial docket.

Case No. 4, called; the counsel for the claimants read the papers, and continued for further reading. Cases Nos. 273 and 274

were by consent of the parties read at the same time, being for part of the same tract of land granted in Case No. 4.

San Francisco, August 3d, 1853.

Cases Nos. 4, 273 and 274, called; the reading the evidence in behalf of the claimants resumed and concluded; argument opened in behalf of the claimants, continued for further argument.

San Francisco, August 4th, 1853.

Cases Nos. 4, 273 and 274, called; argument in behalf of the United States and concluded by the claimants, are submitted and taken under advisement by the Board.

San Francisco, January 31st, 1854.

In the same case, the counsel for the petitioners Castro and Valencia, filed the following motion, affidavit and petition, to wit:

(Vide page 166 of this transcript.)

Motion and the papers submitted and taken under advisement by the Board.

San Francisco, February 7th, 1854.

In the same case, Commissioner Alpheus Felch, delivered the decision of the Board upon motion of the petitioners Castro and Valencia, heretofore, to wit: on the 31st ult., filed, asking leave to be made claimants in this case, overruling the motion.

San Francisco, February 7th, 1854.

In the same case, Commissioner Alpheus Felch delivered the opinion of the majority of the Board confirming the claim.

(Vide page 167 of this transcript.)

In the same case, Commissioner R. Aug. Thompson, delivering his dissenting opinion.

(Vide page 189 of this transcript.)

United States District Court for the Northern District of California.

THE UNITED STATES *ads.* VICENTE and DOMINGO PERALTA. } No. 100.

Being an appeal from the United States Land Commissioners for the State of California, in Case No. 4 on the docket of the Land Commissioners. San Francisco, September 27th, 1854.

Notice of appeal.

(Vide page 213 of this transcript.)

Petition of Vicente and Domingo Peralta.

(Vide page 214 of this transcript.)

San Francisco, October 25th, 1854.

Answer of S. W. Inge, United States District Attorney.

(Vide page 215 of this transcript.)

San Francisco, November 7th, 1854.

Deposition taken in open Court of William Carey Jones and Thos. E. Eversbed.

(Vide page 215 of this transcript.)

San Francisco, November 7th. 1854.

Deposition taken in open Court of J. J. Warner.

(Vide page 217 of this transcript.)

San Francisco, May 2d, 1854.

Deposition of Jacob P. Leese, taken in behalf of claimants, before Jasper J. Papy, a United States Commissioner for said Court.

(Vide page 218 of this transcript.)

San Francisco, May 10th, 1854.

Deposition of James A. Forbes, taken in behalf of claimants, before Jasper J. Papy, a United States Commissioner for said Court.

(Vide page 219 of this transcript.)

San Francisco, November 8th, 1854.

Deposition of M. G. Vallejo, taken in open Court.

(Vide page 222 of this transcript.)

San Francisco, November 9th, 1854.

Expediente of the San Pablo Rancho, and translation in English.

(Vide pages 227 and 231 of this transcript.)

San Francisco, November 9th, 1854.

Deposition of Thomas E. Eversbed, in open Court.

(Vide pages 235 and 236 of this transcript.)

Deposition of J. J. Warner, in open Court.

(Vide page 236 of this transcript.)

Deposition of John A. Hobbord, in open Court.

(Vide page 236 of this transcript.)

Deposition of Julius Chester, in open Court.

(Vide page 237 of this transcript.)

Exhibits T, A, M, Nos. 1 and 2, annexed to the deposition of Eversbed, and translation in English.

(Vide pages 239, 240, 241, and 242 of this transcript.)

Deposition of Abney Von Schmidt, before Commissioner Thompson Campbell, a witness in behalf of the claimants Juan Jose and Victor Castro, Case No. 96.

(Vide page 243 of this transcript.)

San Francisco, November 17th, 1854.

Communication from Secretary of Land Commissioners.

(Vide page 247 of this transcript.)

Last Will and Testament of Luis Peralta.

(Vide page 248 of this transcript.)

San Francisco, January 26th, 1855.

Final Decree.

(Vide page 252 of this transcript.)

San Francisco, January 26th, 1855.

Order granting appeal to the Supreme Court of the United States.

(Vide page 253 of this transcript.)

San Francisco, January 26th, 1855.

Appeal from the decree of District Court to the Supreme Court of United States.

(Vide page 254 of this transcript.)

San Francisco, February 20th, 1855.

Communication from the Attorney-General, Washington.

(Vide page 255 of this transcript.)

Clerk's Certificate.

(Vide page 256 of this transcript.)

Petition A.

To the Hon. the Board of Commissioners for settling Private Land Claims in California.

The petition of Vicente Antonio Ignacio and Domingo Peralta, residents of the County of Contra Costa, State of California, respectfully submit to your Honorable Board the accompanying title to the Rancho of land called San Antonio, granted to Luis Peralta (through whom your petitioners claim by will), on the 16th August, 1820, by Don Pablo Vicente de Sola, Lieut.-Col. of the Royal Armies, and Political and Military Governor, Gov. of California, whose authority to grant land was derived from the King of Spain, by a royal cedula of 24 October, 1781, approving the regulations and instructions for the government of the Californias, Asdeon by Don Felipe de Aevl

dated June 1, 1779; the quantity of land contained in said rancho is not known, it being granted by natural bounds, as follows, to wit: On the north by Don Castro's rancho, or a little mountain called San Antonio; on the east by the mountain range; on the west by the coast, and on the south by the creek called San Leandro. No conflicting claim to said rancho is known to your petitioners.

Further your petitioners represent that they, as well as their father before them, have had long possession of said land, which they are ready to prove by living witnesses.

Your petitioners farther represent, that the said will, under which they claim, is of record in the County of Santa Clara, a copy of which they pray to be made a part of this petition, as soon as it can be obtained, so also the accompanying abstract of title and note of agreement. All which is respectfully submitted.

IRVING & ROSE.

Filed in office, January 21, 1852.

(Signed) J. B. CARR,
Secretary.

Deposition of Antonio Pacheco.

In the petition of Vicente Peralta and others, for the confirmation of the Rancho San Antonio, in Contra Costa, being No. 4 on the docket of the Commission for ascertaining and settling Private Land Claims in California.

Antonio Pacheco was offered as a witness by the petitioners, and being duly sworn, says he has no interest whatever in the case pending nor in the issue thereof.

Interrogatories propounded by Petitioners' Counsel.

First. Where do you reside?

Deponent's answer. In the Monte del Diablo.

2d. How long have you lived there?

Answer. Five years; going on six years.

3d. Did you know Don Luis Peralta?

Answer. I did.

4th. Do you know whether there was granted to Don Luis Peralta any land in the name of the Monarch the King of Spain by the Governor of California?

Deponent's answer to the 4th interrogatory objected to by law agent as incompetent.

Witness answers in the affirmative.

5th. Do you recollect the name of the Governor who granted the land?

Law agent objects, as shown by the grant.

Deponent's answer. That he does not know who the Governor was that gave the title.

6th. What land was granted to Peralta, what is the name of the rancho, and where is it situated?

Law agent objects to parol proof, as the grant will show.

Deponent's answers. That the land from San Leandro to the little mountains or hills, all of which is called San Antonio.

7th. Do you know who gave him possession of it?

Law agent objects to proving this by parol testimony.

Deponent's answers. That the late Ignacio Martines, by order of the Governor ad interim, Don Luis Peralta.

Interrogatory 8th. What are the limits of San Antonio?

Law agent objects to proving this by parol.

Deponent answers and says, from San Leandro to the hill; he says there is but one hill, and they call it The Hill. It is where Victor Castro lives, and from the sea-shore up to the highest point of the hills as far as the natural sight can reach.

9th. Who are the contiguous neighbors?

Law agent objects as immaterial.

Deponent answers. Victor Castro, Joaquin Moraga, Joaquin Estudillo, those are all.

10th. Where and at what time? &c.

Waived by petitioners' counsel.

11th. Do you know whether Don Luis and his children (sons) (hijos) have always occupied it, since the government has given possession of it to Don Luis?

Law agent objects as incompetent.

Deponent answers, that he knows Don Luis and his children (sons) (hijos) have occupied it.

Law agent of the United States propounds the following question to the witness.

In what manner has Don Luis Peralta and his sons occupied the said Rancho San Antonio?

Deponent answers. They have put their stock on that rancho, and have lived on it; have several houses on it, and have cultivated the grounds so far as they have the means.

his
ANTONIO X PACHECO.
mark

State of California, San Francisco, *ss.*

February 12th, 1852.

The foregoing deposition of Antonio Pacheco, taken at the request of Vicente Peralta and others, was taken, subscribed, and sworn to. The Law Agent of the United States was present, and did not object otherwise than as specifically set forth in the deposition above. The deponent was interrogated as to his interest, and disclaimed any interest in the claim, or to the result of the application. Before me,

JAMES WILSON,
Commissioner.

Filed in office, February 12th, 1852.
(Signed) GEORGE FISHER,
Secretary.

Deposition of Salvio Pacheco.

Deposition of Salvio Pacheco, witness offered by the petitioners, in the case of Don Luis Peralta, relating to the claim for Rancho San Antonio.

Interrogatories of Petitioners' Counsel.

1st. Did you know Don Luis Peralta?

Answer. I did.

2d. Do you know whether any land was granted to Don Luis Peralta in the name of the Monarch the King of Spain by the Governor of California?

Law agent objects to parol testimony as to a grant.

Deponent answers. Says there was, from the little hill (Cerrito) called San Antonio, to the deep creek (Arrayo hondo).

Objected to by law agent as not a proper answer to the question.

3d. Do you know whether or not Don Luis Peralta and his sons have always occupied the said Rancho San Antonio since the government gave possession of the same to Don Luis Peralta?

Deponent answers. They have occupied it and worked on it ever since.

4th. Do you or not know the exact limits of said rancho?

Law agent objects to parol evidence of limits.

Deponent's answer. The limits that I know and have known are these: from the little hill (Cerrito) to the deep creek (Arrayo hondo) south, and from the water's edge of the sea to the highest ridge of the mountain (Sierra), those were the boundaries or limits of said rancho, as commonly known and considered by the people in the neighborhood.

By Law Agent of the United States.

Interrogatory 1st. In what manner did Don Luis Peralta and his sons occupy the said rancho?

Deponent's answer. Says that the Peraltas lived on it, placed cattle on it, and have cultivated it, and maintained the family from produce of the ground.

2d. For what length of time do you know of their having so occupied it?

Deponent's answer. Says that he has known it for about thirty years, more or less, and during that time he (the witness) knows that the Peraltas have so occupied it. Witness says, that in the year 1809 he enlisted as a soldier in the Presidio of San Francisco; that he was fifteen years in the military service; was discharged in 1824, and ever since he has known that the Peraltas have occupied the Rancho San Antonio.

3d. Have you lived in the immediate vicinity of the said Rancho San Antonio since 1824?

Deponent says that he has lived some of the time at the Monte del Diablo, about ten or twelve leagues from the Rancho San Antonio, at the north of it. I have lived there some ten or twelve years last past. I lived at San José when first discharged from military service, and after getting grant of my land I lived at Monte del Diablo.

4th. If you lived so remote from the Rancho San Antonio, what was your means of knowing that the Peraltas occupied it, as you have said above?

Deponent's answer. Says he was frequently passing by said rancho, and he always saw a stock of cattle and horses on it, belonging to the Peraltas. They formerly had a large stock of cattle, more than they have now.

5th. How did you know these cattle belonged to the Peraltas?

Deponent's answer. Says he knew it well by their mark and brand on the cattle; that throughout the country the proprietors knew the marks and brands of each other.

6th. What was the mark, and what the brand on the cattle?

Deponent answers. The brand was A, there was also a notching in the ear: these were the marks and brands on the cattle I called Peralta's.

7th. In what time in the year 1824 was you discharged from military service?

Deponent answers. It was on the 7th of August, 1824.

SALVIO PACHECO.

State of California, San Francisco, *ss.*

Feb. 12th, 1852.

The foregoing deposition of Salvio Pacheco, taken at the request of the petitioners, Don Luis Peralta and others, to be used in the case relating to Rancho San Antonio. The deponent was interrogated in regard to his interest, and said he had no interest whatever in the claim or in the issue of the application on the voire claire.

The law agent of the United States was present, and did not object otherwise than as specifically set forth in the deposition.

The said deponent subscribed and made oath to the foregoing deposition, before me.

JAMES WILSON,
Commissioner.

Filed in office Feb. 12th, 1852.
(Signed) GEORGE FISHER,
Secretary.

Deposition of Jose Fernandez.

Office of the Board of Commissioners of California Land Claims,
San Francisco, Feb. 25, 1852.

On this day, before Hiland Hall, one of the commissioners for

ascertaining and settling private land claims in the State of California, came Jose Fernandez, a witness produced in behalf of the claimants in the case of the petition of Luis Peralta, being number 4 on the docket of the Commissioners, and after being duly sworn testified as follows, his evidence being given in the Spanish language, and interpreted by John Clar, a clerk of the Board, by consent of the counsel for the claimants, and the law agent.

Question by Mr. Rose, counsel for the claimants.

1. What is your name, age, and residence?

Answer. Jose Fernandez is my name. I am fifty-three years old, and reside in Santa Clara.

2. Are you acquainted with the handwriting of Governor Sola, and what were your means of knowledge of his handwriting and signature?

Answer. I am acquainted with his handwriting. I was in the army with him and saw his signature often, and was well acquainted with it. I have seen him write his signature frequently.

Look at paper filed "No. 4 Espediente," and marked A. H. H., and say whether the signature purporting to be that of Sola, on page 9, is his handwriting?

Answer. It is the same signature that I have before seen, such as I have seen before. The signature on page 13 is also the same, and is also that on page seventeen.

Are you acquainted with the handwriting of Don Luis Antonio Arguello, and what are your means of knowing his signature?

Answer. I am acquainted with his handwriting and signature. He was captain of the company to which I belonged for nearly ten years, and I have often seen him write.

Look on page nine of the before-mentioned paper, and say if the signature, Arguello, is his handwriting?

Answer. It is his signature in part, the last name is only given. The signature on page 27 is his full signature.

Are you acquainted with the handwriting and signature of Ignacio Martinez, and what are your means of knowing it?

Answer. I am acquainted with his handwriting and signature, and have often seen him write.

Look on pages 13 and 17, at the names purporting to be his signature, and say whether they are genuine or not?

Answer. They appear to be genuine.

JOSE FERNANDEZ.

Sworn and subscribed as above. Feb. 25, 1852, before me.

HILAND HALL,
Commissioner.

Filed in office Feb. 25th, 1852.

(Signed) GEORGE FISHER,
Secretary.

Deposition of Salvio Pacheco.

San Francisco, March 18th, 1852.

On this day, before Harry J. Thornton, one of the Commissioners for ascertaining and settling private land claims in the State of California, came Salvio Pacheco, a witness produced in behalf of the claimants in the petition of Vicente Peralta et al., being No. 4 on the docket of the Commissioners, who was duly sworn as such witness. The law agent was duly notified and attended. The witness gave his testimony in the Spanish language, which was interpreted by the Secretary. The testimony is taken subject to all just objections to the same, or to all parts of it.

In answer to inquiries made by Mr. Rose, counsel for the petitioner, the witness testified as follows:

Questions by claimants' counsel, propounded to witness.

Question. Are you acquainted with the handwriting of Arguello Ignacio Martinez, Juan Miranda, and Nicolas Berreyesa?

Answer. I am.

Question. Have you ever seen them write?

Answer. I have.

Question. And the signatures of these names on the document now here shown you marked A, genuine or not? Is said document an original or not, which is herewith filed, marked A, and attached to the deposition?

Answer. They are genuine, the document is the original.

SALVIO PACHECO.

Sworn to and subscribed, this 18th day of March, 1852, before me,

HARRY J. THORNTON,
Commissioner.

Filed in office March 18, 1852.

(Signed) GEORGE FISHER,
Secretary.

Deposition of Vicente Peralta.

San Francisco, April 21, 1852.

On this day, before Harry J. Thornton, one of the Commissioners for ascertaining and settling private land claims in the State of California, came Vicente Peralta, a witness produced in behalf of Juan Jose Castro et al., contesting the claim set forth in the petition of Vicente Peralta et al., being No. 4 on the docket of the Board, and after being duly sworn, testified as follows: his evidence being given in the Spanish language, and interpreted by the Secretary, George Fisher. The law agent and counsel for claimants were notified and attended.

Question to witness, propounded by and for the contestants, Juan Jose Castro and Victor Castro, in the Peralta claim of No. 4 on the docket of cases before the Land Commissioner.

Question 1st. What is your name, age, and residence?

Answer. My name is Vicente Peralta, my age is 37, my residence Contra Costa.

Question 2d. Are you one of the claimants to the rancho of San Antonio, in a suit now pending before the United States Land Commission.

Answer. I am.

Question 3d. By what creek or line is said rancho bounded on the south.

Answer. It is bounded by a creek called San Leandro, on the south.

Question 4. Will you look upon the chart now shown you, entitled General Chart, sheet No. 1, and sheet No. 2 of Commander Cadwallader Ringgold's official charts and surveys in California, and say whether the location of the Creek of San Leandro is correctly represented thereon?

The above question is withdrawn, and the following question substituted.

Question 4. Look on this certified copy of said rancho, as filed in this case with the Secretary of the Land Commission, and say whether the creek there set down as San Leandro, is the San Leandro, and is correctly delineated thereon?

Answer. The creek on the map shown me, I believe to be put down correctly as forming the southern boundary of the said Rancho, which creek has been known as such.

Question 5. Look upon the said map at the two places marked as encinals and so designated, and say what creek enters into the bay between them?

Answer. There are two creeks that enter into the bay between these marked points, the one is called, being the largest, "Indito," and the other has no name that I know of.

Cross-Interrogatories by the Claimants.

Cross-question 1. Has the creek which you call Indito any other name?

Answer. It has no other name.

Question by the U. S. Law Agent.

Question 1. Has the creek which you point out as Indito, within your knowledge, been called any other name whatever, and has it not been called San Antonio?

Answer. It has not been known by the name San Antonio.

VICENTE PERALTA.

Sworn to and subscribed before me, this 21st day of April, 1852.
HARRY J. THORNTON,
Commissioner.

Filed in office April 21st, 1852.
(Signed) GEORGE FISHER,
Secretary.

Deposition of Franco. Arce.

San Francisco, April 22d, 1852.
Office of the Commissioners of Private Land Claims in California.

On this day before me, Harry J. Thornton, one of the Commissioners for Ascertaining and Settling Land Claims in California, came Francisco Arce, a witness produced in behalf of Juan Jose Castro and Victor Castro, contesting the claim of Vicente Peralta et al., whose petition is docketed No. 4. The witness being duly sworn, testified as follows:

The Law Agent of the United States being notified and attended by Mr. Greenhow.

Questions by the Contestants, Juan Jose Castro and Victor Castro.

Question 1. What is your name, age, and place of residence?

Answer. My name is Francisco Arce; my age is twenty-eight years; my place of residence is the County of Santa Clara.

Question 2. What official station, if any, did you hold in California, in the year 1841?

Answer. I held the office of Chief Clerk in the State Department of California, then a department of the Republic of Mexico.

Question 3. Look at the document now shown you, marked A, and purporting to be the original grant for the Sobrante from Governor Alvarado to Juan Jose Castro and Victor Castro, dated April 23d, 1841, a certified copy of which is filed with the United States Land Commissioners, in the case docketed No. 4, and marked Exhibit A, and say whether you ever saw it before?

Answer. I have examined the paper marked "A," and described in the foregoing interrogatory, and recognize the same to be the original petition written in my own handwriting; I have also examined a copy thereof, marked Exhibit A, filed with the United States Land Commissioners, and find the same to be correct. The decree granting the land solicited in the petition is in the handwriting of Alvarado, the Governor of California.

Question 4. State what you know about the making of the grant.

Answer. Juan Jose Castro and Victor Castro solicited Governor Alvarado for a grant of land, which was the excess of the lands already granted for various ranchos, as enumerated in the before-mentioned petition. The land was granted by Governor Alvarado, and the grantees were required, as in all similar cases, to cause the lands to be surveyed, but in consequence of want of sur-

veyors in California it was not done, as unfortunately is the case with many others.

Question 5. Are you familiar with the signatures of Juan B. Alvarado, Manuel Jimeno, and Antonio Maria Osio; have you ever seen them write?

Answer. I am familiar with their signatures, and have seen them write at various times during the period of sixteen years.

Question 6. Look at the signatures, and scrowls, and documents marked A, and described in the Interrogatory No. 3, and say whether or not they are genuine?

I believe them to be genuine signatures and scrowls, such as they used to sign and affix to all public documents.

FRANCO. ARCE.

Sworn to and subscribed before me, this 22d April, 1852.

HARRY J. THORNTON,
Commissioner.

Filed in office April 22d, 1852.

(Signed) GEO. FISHER,
Secretary.

Deposition of Joaquin Castro.

Office of the Board of Land Commissioners for California.
San Francisco, May 11th, 1852.

On this day before me, James Wilson, one of the Commissioners for Ascertaining and Settling Private Land Claims in California, came Joaquin Garo Castro, a witness produced in behalf of Juan Jose Castro and Victor Castro, contestants in the case of Vicente Peralta et al., No. 4, and after being duly sworn, testified as follows:

The Law Agent of the U. S. was duly notified and attended.

Questions by the Contestants, Juan Jose Castro and Victor Castro.

Question 1. What is your name, age, and place of residence; and where you were born?

Answer. My name is Ydro. Castro; my age forty-three years; my residence is the County of Contra Costa; my birth is the place, in the town of San Jose, in California.

Question 2. How long have you lived in the Contra Costa?

Answer. I am living there since the year of 1825.

Question 3. Are you familiar with all the localities of the Contra Costa in and about the Rancho of San Pablo, San Antonio, and Pinol?

Answer. I am.

Question 4. Where is the San Leandro Creek?

Answer. It is situated between the houses of Estudillo and Peralta, forming the boundary between their lands.

Question 5. Where is the San Antonio Creek? (El Arroyito de San Antonio.)

Answer. It has its source in the Red Woods Mountains, and it runs north of Antonio Peralta's house, in a southwesterly course towards the bay, and it sinks in a willow grove not far from the bay.

Question 6. Where is the Estuary of San Antonio?

Answer. It is in front of the Island of Yerba Buena, in a southwesterly course from the willow grove above stated.

Question 7. Is the San Antonio north or south of the San Leandro?

Answer. It is in a northerly direction somewhat to the last.

Question 8. Are there or are there not hills (lomitos o Serritos), bordering on the San Antonio Creek and running down towards the bay?

Answer. There are, between the places called San Antonio and Temiscal.

Question 9. How many leagues is it by the coast from the San Leandro Creek to the hills you have just mentioned bordering on the San Antonio?

Answer. From four and a half to five leagues, more or less.

Question 10. Have you ever heard any other creek on the Contra Costa called San Antonio?

Answer. I never have.

Question 11. Who have you ever heard call this creek the San Antonio?

Answer. I have always heard the old people, the owners of ranchos, calling it by that name, and it is now known by that name.

Question 12. Look on the map now shown you, which purports to be a map of the Rancho de San Antonio, and is filed with the Secretary of the United States Land Commission, by the Peraltas, in Case No. 4, as a part of their Espediente, and say whether the San Leandro Creek is correctly represented thereon?

Answer. It is. It is situated between south and west from the Rancho house.

Question 13. What creek as represented thereon is the San Antonio?

Answer. It is the first creek in a northwesterly course from Antonio Maria Peralta's house.

Question 14. Are the Encinals or are they not correctly represented on the map?

Answer. They are not. The one nearest to the San Leandro Creek, although represented smaller than the other, it is at least twice as large as the other, and it reaches nearly to the mouth of San Leandro Creek on one side, and on the opposite side near the mouth of the Canada, the Yudito, and approaches within about a mile the other Encinal (oak groves).

Question 15. Is the map generally correct or not?

Answer. I believe not, for I find many defects on it.

Question 16. If it had no names upon it, and if you were not told that it was intended to represent a portion of the Contra Costa, would you or not recognize it as representing a portion of Contra Costa?

Answer. I would not recognize it as representing a portion of Contra Costa.

Question 17. Look at the line on the map representing a creek farthest to the left, and say whether or not there is any creek in that place?

Answer. There is no creek in that place.

Question 18. Do you know whether or not Don Luis Peralta or his sons have ever had possession of the Red Woods or of the "Encinal," represented on the map described in Interrogatory No. 14?

Answer. I know they never had possession of them in such a manner as to make improvements thereon, but I know that their cattle ranged on it.

Question 19. Do you know whether the Peraltas have ever occupied any, and if any, how much or little of the lands lying north of the San Antonio Creek, and between it and San Pablos?

Answer. I do know that Vicente Peralta and his brother, Domingo Peralta, have occupied lands north of the San Antonio Creek, and between it and the hills called San Pablo, watered by a spring branch, called El Arroyeto de Temescal; the said tract of land is about four square leagues. I know them to have occupied it for about sixteen or seventeen years.

Question 20. How many square leagues are there altogether between the San Antonio and the Serritos of San Pablos?

Answer. From seven to eight leagues.

Question 21. State whether the rancho house of San Pablo, belonging to the mission of San Francisco, on the Contra Costa, was situated, and where was their corral for sheep. State whether the Cerrito of San Pablo was between said house and corral, what was the distance from the house to the corral, and the distance from said cerrito to the corral?

Answer. The house was situated on the table-land, between the small and the large creeks, called San Pablo, and the house occupied by me, and a house occupied by my brother Antonio, the ruins of which rancho house can be seen yet. The corral for sheep was situated in a willow grove, called Temescal. The Cerrito of San Pablo was about half way between the said rancho house and the corral. The distance from the house to the corral was about three leagues and a half, and the distance from the said cerrito to the corral was little upwards of five miles.

Question 22. Do the hills (cerritos) of which you made mention as bordering the Creek of San Antonio, run down the beach of the Estuary of San Antonio?

Answer. The hills (cerritos) as described in the above interrogatory, do run to the beach of the Estuary of San Antonio.

Question 23. How far towards the north was it from the San Antonio Creek to the said sheep corral? How far from San Antonio to the said rancho house?

Answer. The distance from San Antonio to the said sheep corral was about two leagues. From San Antonio to the said rancho house the distance is seven leagues, more or less.

Question 24. State whether you ever had a suit with the Peraltas concerning the "Red Woods," and what was the decree of Alvarado in the case.

Answer. I had. The decision of Alvarado was leaving the Red Woods free to public use.

Question 25. What do you mean by your answer to Question No. 19, to say that the Peraltas were in possession of three or four leagues north of the San Antonio?

Answer. Since fifteen or sixteen years, with cattle and horses and a cattle pen, until the cession of the country to the United States, since which time they have been occupying it with extensive improvements, such as houses, fences, pens, and by cultivating ground exceeding one hundred acres.

Question 26. Before the occupation by the Americans, did the Castros have much land in actual cultivation? Say how much.

Answer. They had in several fields upwards of two hundred acres in cultivation.

Questions propounded by the Law Agent.

Question 1. Is the tract of land herein referred to all within ten leagues of the sea-coast?

Answer. It is within the ten leagues bordering on the sea-coast.

Question 2. How many square leagues are embraced within the following points, viz.: the deep creek of San Leandro on the southwest, the creek described as a northeasterly boundary of the Peralta's land, on the plot of the Espediente, filed in this case, and embracing the petition of Ignacio Peralta, or the Arroyito de Cerrito de San Antonio, or, as it is now known, the Cerrito of San Pablo, the Bay of San Francisco, and the top of the Sierra?

Answer. From the practical knowledge I have of the land described in the foregoing interrogatory, it appears to me it can be no less than ten square leagues. The Peraltas call the Cerrito San Antonio, and we, the Castros, call the same Cerrito de San Pablo.

Question 3. How far is it in a direct line, in your judgment, from the Creek of San Leandro to the Cerrito de San Pablo, as the Castros call it?

Answer. About six or seven leagues.

JOAQUIN Y. CASTRO.

Be it remembered, that on this 11th day of May, A. D. 1852, the foregoing deposition of Joaquin Y. Castro, was taken, at the request of the contestants of claim of Peralta, Case No. 4, for the Rancho San Antonio, to be used in the hearing of said claim.

Geo. W. Cooley, Esq., Law Agent of United States, and R. Rose,

Esq., Attorney for the Peralta claim, were present, and did not object.

Subscribed and sworn to before me,

JAMES WILSON,
Commissioner.

Filed in office May 11th, 1852.

(Signed) GEO. FISHER,
Secy.

Case No. 4.

Deposition of Manuel Baca.

Office of the Board of Commissioners of California Land Claims,
San Francisco, May 14, 1852.

On this day, before me, James Wilson, one of the Commissioners for ascertaining and settling private land claims in the State of California, came Manuel Baca, a witness produced in behalf of Juan Jose Castro, and Victor Castro, who intervene upon the petition of the Peraltas for the grant of Rancho San Antonio, whose petition is No. 4 on the docket of the Board, and was duly sworn.

George W. Cooley, Esq., United States Law Agent, was notified and attended.

Manuel Baca, a witness, introduced by Juan Jose Castro, and Victor Castro, who intervene upon the petition of the Peraltas for the grant of land or Rancho San Antonio. The witness, upon examination of counsel for the Castros, says, that he has no interest either *either* on the part of the claimants, the Peraltas, nor on the part of the contestants, the Castros. My name is Manuel Baca; the place of my birth is Santa Fe, New Mexico; the place of my present residence is on my rancho, in the County of Solano, about fourteen leagues from Sonoma. I am acquainted with the localities in and about the Ronchos of San Antonio and San Pablo, in Contra Costa County, and have been since the year 1833. There are two creeks, one before you get to the house of Antonio Peralta, on the road coming from San Jose, the other, after passing the house of Antonio Peralta, and before you get to the house of Vicente Peralta, on the same road. I do not know which is the one called San Antonio. The place where Vicente Peralta lives is called Temascal. The Cerrito of San Pablo is near the same road, beyond Temascal, and near to San Pablo; was never known to my knowledge by any other name. The small creek that runs near the Cerrito San Pablo never had any name to my knowledge.

The rancho house belonging to the mission of San Francisco was at San Pablo, where the Castros live, and the ruins are still to be seen there. This distance from those ruins to the Cerrito of San Pablo may be from one and a half to two leagues.

In answer to an Interrogatory by Geo. W. Cooley, Esq., Law Agent, United States, the witness says, that he does not know

whether the Rancho of San Antonio is within ten leagues of the sea-coast or not.

his
MANUEL ⋈ BACA.
mark

May 14th, 1852.

Subscribed and sworn to before me,

JAMES WILSON,
Commissioner.

Filed in office, May 14th, 1852.
(Signed) GEO. FISHER,
Secretary.

No. 4. Commissioners' Docket.

Petition of Peraltas for confirmation of Rancho San Antonio.

Deposition of R. Gibbons.

Office of the Board of Land Commissioners for California.
San Fancisco, May 22d, 1852.

On this day, before me, James Wilson, one of the Commissioners for ascertaining and settling private land claims in California, came Redmond Gibbons, a witness produced in behalf of the United States in the petition of Vicente Peralta et al., being No. 4 on the docket of said Commissioners, and after being duly sworn, testified as follows.

Mr. Rose, counsel for petitioners, was present and did not object.

Redmond Gibbons, witness introduced by G. M. Cooley, Esq., Law Agent United States, says: I reside in San Francisco. I claim a piece of land that I understand is within the limits of the land claimed by the Peraltas. I have a brother who is interested with me in the land, and he resides upon it. Our claim is what is called a squatter's claim.

I have understood the extent of the land claimed by the Peraltas. As I have understood it, their claim is from the comb or ridge of the high mountains to the waters of San Francisco Bay—that is the width of the land from east to west; and from San Leandro Creek on the south to the Cerrito of San Pablo on the north. I have known the land for about seventeen months, and have frequently been on the land, and walked or ridden over portions of it. I judge that the average width of the land, from the ridge or comb of the mountains to the waters of the bay, to be about ten miles. The length, from San Leandro Creek to the Cerrito of San Pablo, I do not know, never having passed over it directly. The creek, which runs between the houses of Antonio Peralta and Vicente Peralta, I have always heard called San Antonio. I never heard it called by any other name. The creek discharges itself into an estuary which passes up from the bay between the two Encinals. That estuary is also called San Antonio. Along the banks of that creek, between the tide-

water and the mountain, there are some hills. I cannot say how far they are from the tide-water.

I should judge the average width of the plain, from the bay to the foot of the mountains, to be between five and six miles.

REDMOND GIBBONS.

May 22, 1852.

Subscribed and sworn to before me,

JAMES WILSON,
Commissioner.

Filed in office, May 22d, 1852.
(Signed) GEO. FISHER,
Secretary.

No. 4. Commissioners' Docket.

Petition of Peraltas for Confirmation of San Antonio.

Deposition of Andrew Moon.

Office of the Board of Land Commissioners for California.
San Francisco, May 22d, 1852.

On this day before me, James Wilson, one of the Commissioners for ascertaining and settling private land claims in California, came Andrew Moon, a witness produced in behalf of the United States in the petition of Vicente Peralta et al., being No. 4 on the docket of said Commissioners, and after being duly sworn, testified as follows.

Mr. Rose, counsel for the petitioners, was present, and did not object.

Andrew Moon, a witness offered by George W. Cooley, Esq., Law Agent of the United States, and examined by him, says: Reside at a place called Encinal del Temiscal. It is an oak grove on the Contra Costa side of the bay of San Francisco, and, as I understood, a part of the land claimed by the Peralta petition. I am there as a squatter, as we are called, and I claim, or intend to claim, my right to the place I occupy under the United States. I know the land is claimed by the Peraltas. I understand that claim to be from the edge of the water of the bay to the edge or comb of the high mountains. This I understand to be the width of the land from west to east. I understand the Peraltas to claim from the creek of San Leandro on the south to the Cerrito of San Pablo on the north, which is near the house of Victor Castro. This is as I have understood, their claim to be made.

I have travelled over the old land several times. The width from the waters of the bay to the ridge or comb of the mountains, varies from eight to twelve miles, and averages about ten miles.

The length of the claim from San Leandro creek to the Cerrito of San Pablo, I think, is somewhere from twenty-six to thirty miles. I have travelled it several times, part of the way on foot, and the residue on horseback. I have known the lands for about two years last past.

The creek that passes between the houses of Antonio Peralta and Vicente Peralta I have heard called San Antonio. I have never heard any other name given it since I have known it.

A. MOON.

May 22d, 1852.

Subscribed and sworn to before me.

JAMES WILSON,
Commissioner.

Filed in office, May 22d, 1852.
(Signed) GEO. FISHER,
Secretary.

Deposition of A. B. Smith.

Office of the Board of Land Commissioners for California.
San Francisco, May 25th, 1852.

On this day, before me, Harry J. Thornton, one of the Commissioners for ascertaining and settling private land claims in California, came A. B. Smith, a witness produced in behalf of the United States in the petition of Vicente Peralta et al., being No. 4 on the docket of said Commissioners, and after being duly sworn, testified as follows.

Mr. Rose, counsel for petitioner, was present, and did not object.

Questions by the United States Law Agent.

Question 1. What is your name, age, and place of residence?

Answer. My name is A. B. Smith; my age is about thirty-four (34); my residence is Martinez, in the State of California.

Question 2. Please state whether or not you were State and County Assessor for the County of Contra Costa for the year of 1850 and 1851.

Answer. I was.

Question 3. State whether or not you made an assessment of the rancho of San Antonio, in the County of Contra Costa for those years?

Answer. I did.

Question 4. In whose name did you assess the rancho?

Answer. In the name of Don Luis Peralta.

Question 5. State whether or not any representation was made to you as such Assessor as to the extent of said Peralta's interest in the land embraced in said rancho, after which you founded such assessments? and if so, by whom it was made, and whether or not it was made under oath.

Answer. There was. I am under the impression that it was represented that the property of Don Luis Peralta, in said rancho, was five and one-half leagues for the year 1850. This representation was made by two (2) of his sons, they alone being present, and it was made under oath; these sons were Ignacio and Antonio; one of the sons gave it in

under oath as the property of his father, but which one I do not recollect. In the year 1851, Don Luis's property in the rancho was given in by Ignacio, Antonio, and Vicente Peralta, sons of said Don Luis, as five (5) leagues. This statement was sworn to by some one of the sons, but which one I do not recollect. I mean when I say leagues, square leagues of land.

A. B. SMITH.

Sworn to and subscribed before me the 25th of May, 1852.

HARRY J. THORNTON.
Commissioner.

Filed in office, May 25th, 1852.

(Signed) GEO. FISHER,
Secretary.

No. 4.

Deposition of N. Berreyesa.

Office of the Board of Land Commissioners for California.
San Francisco, May 26th, 1852.

On this day, before me, James Wilson, one of the Commissioners for ascertaining and settling private land claims in California, came Nicholas Berreyesa, a witness produced in behalf of the United States in the case of Vicente Peralta et al., being No. 4 on the docket of said Commissioners, and after being duly sworn, testified as follows; his evidence being given in the Spanish language, and interpreted by Geo. Fisher, Secretary. The counsel for the claimants being present and did not object.

This deposition taken at request of G. W. Cooley, Esq., Law Agent United States.

Mr. Rose, for Peralta claim, present.

Nicholas Berreyesa, witness introduced by Geo. W. Cooley, Esq., Law Agent United States, and upon examination by him says: My name is Nicholas Berreyesa, and I am sixty-two years of age. I have no interest in the rancho San Antonio. The Castros are my nephews, and the Peraltas are my cousins. I was a soldier in the company of Capt. Don Louis Arguello in the year 1820. Upon the reading to me the document upon part of the 9th page, 10th page, and two lines and one word on 13th page, and three signatures on P 13th page, being the traced copy from the Archives on file in the above cause, I say that the signature thereon, or traced copy of my signature, looks like my genuine signature. I have signed two papers giving juridical possession of the rancho San Antonio to the Peraltas. The first time I signed was when I assisted in giving the possession to the Peraltas. The second time I signed was at the Mission of San Jose, when Lieut. Ignacio Martines said that the first papers were of no account, and that he would dispense with going on the ground, as they had already been once; this was some three or four months after the first papers were signed.

When I was first on the land to assist in giving juridical possession,

Sola was Governor at that time; Don Luis Arguello was Captain or Commandante of the troops at the Presidio of San Francisco. I do not remember who was Governor when I signed the second time. Upon consideration, I think and believe that Don Louis Arguello was the acting Governor when the papers were all completed and filed right. I recollect signing two papers, but I cannot now recollect having signed any more. I cannot say how it was, but I do recollect that I heard something about the priest of some of the missions having taken some of the land from the Peraltas, and that, in consequence of that, it was necessary that something further should be done in regard to it, and that new possession should be given of the land, and that this was the reason why those second papers were necessary. When the papers were signed the first time on the ground, and the second time at San Jose, my companion, Juan Miranda, was present with me and signed the papers also. The said Juan Miranda is now dead. I cannot recollect whether Lieut. Ignacio Martines signed the papers at San Jose at the same time I and Miranda signed them. The reason which Ignacio Martines gave for not going on the land the second time was, that as they were the same witnesses, and knew the line that they had run, and the land-marks designated, he would dispense with going on the land the second time, as it was not necessary. At the time Martines gave the possession the first time on the ground, Martines asked Peralta what he wanted, and Peralta went ahead and pointed out the land. Martines followed him, and we followed after in the path. There was no cord used or measurement made at that time that I saw. We commenced at the deep creek called San Leandro, and stopped at a hill now called San Antonio; formerly it had no name; the hill is close to the estuary. I did not know of any name to the hill formerly. Martines did establish the boundary. They looked to the east and saw a large cone-shaped rock on the high mountain, and Martines said let that be the landmark; and we all, Ignacio Martines, Juan Miranda, Louis Peralta, and myself, took up stones and made a pile of them at the foot of the hill called San Antonio, for another landmark: this monument was at the south side of the hill now called San Antonio. These monuments were established by Martines, as he was requested to, and as designated by Louis Peralta. He, Louis Peralta, pointed out the boundaries, and Martines established them as Peralta pointed them out. At that time, Ignacio Martines, Juan Miranda, Louis Peralta, and Domingo Peralta, his son, and myself were present. There was no other person as I recollect. Antonio Pacheco was not there at that time. I am sure he was not there. There was two stones put on the top of the hill at that time. We did not go unto the top of the hill San Antonio: we did not think of going up to the top. I never went on to that land at any other time, than as last above-stated, to assist in giving juridical possession of the same. At the

time we were near the hill called San Antonio, I saw nothing done by Domingo Peralta towards building a mound of stones on the top of that hill, nor did I see him go up the hill at that time. Domingo Peralta might have gone up that hill without my seeing him, but I did not see him go up. I did not see any of the party go up the hill at that time, nor did I hear of any of them going up. Since the Peraltas established themselves on the Rancho, and since the juridical possession, as stated, I have heard the said hill, near the estuary, called San Antonio; before that, I had never heard it called by that or any other name. By the term (Estero) Estuary, as used as above, I mean the estuary that goes into the country on marshy land, by a willow grove. I do not mean the beach or playa. The hill that I speak of, where we built the pile of stones, is nearly in a westerly direction from the house of Victor Castro. It is a little more or less than a league from the place where the Rancho-house of the Mission of Dolores formerly stood.

Interrogatories of Carpentier, Attorney for the Castros' claim.

When we gave the juridical possession, as stated in the foregoing deposition, we all went on horseback; we went straight in the road where the road used formerly to run. We rode on in our common usual way. We did not go from the high mountains to the bay. We only *whent* from San Leandro Creek to the hill, as before stated; we did not cross the Rancho. When Ignacio Martines gave the juridical possession of said Rancho he did not say anything about the width or extent of it from west to east, as I heard, nor did he designate the eastern or western boundaries. When we got to the deep creek of San Leandro, Martines and Luis Peralta dismounted. Lieut. Martines directed Miranda and myself to retire for a little, load our carbines, and fire a salute, as he was going to put Luis Peralta in possession of that Rancho. We did so. Martines took a paper or book and read something. I do not know what it was. Martines pulled up some dirt or grass and threw to the four cardinal points, as a ceremony suited to the occasion. When we got to the hill called San Antonio, Louis Peralta said let the landmark be here. We established only one landmark on the south side of said hill: it was on the side which faces towards San Leandro Creek.

Question by Mr. Rose, for the Peralta claim.

Witness says, the signature to the paper now shown to me, which purports to be my signature, appears to me to be my signature. My eyesight is now very defective, and I cannot see well enough to be certain whether it is mine or not; as far as I can see it appears like mine. I am certain I never signed any papers but twice relating to the possession of said Rancho.

N. B.—The witness asked the interpreter if the paper now shown him, in which appears his signature aforesaid, relates to the juridical

possession of said Rancho, and the interpreter replying that it does. The witness says, as above, viz., that he is certain he never signed but two papers relating to the juridical possession of said Rancho.

his
NICOLAS ⋈ BERREYESO.
mark

The witness now signs, by his mark, because of defective eyesight.

May 26th, 1852.

Subscribed and sworn to before me,

JAMES WILSON,
Commissioner.

Filed in office, May 26th, 1852.
(Signed) GEO. FISHER,
Sec'y.

No. 4.

Deposition of S. H. Robinson.

Office of the Board of Land Commissioners for California,
San Francisco, May 27th, 1852.

On this day, before me, James Wilson, one of the Commissioners for ascertaining and settling private land claims in California, came S. H. Robinson, a witness produced in behalf of the United States, in the case of Vicente Peralta et al., being No. 4 on the docket of said Commissioners, and, after being duly sworn, testified as follows —counsel for claimant being present and did not object:

S. H. Robinson, a witness introduced by Geo. W. Cooley, Esq., Law Agent U. S. Witness says that he has a house in the land claimed by the Peraltas. I am what is called a squatter on what I understand is claimed, as part of the Rancho San Antonio, on the east side of the Bay of San Francisco, in Contra Costa.

I understand the Peraltas claim from the Creek of San Leandro to the Cerrito, which I call San Pablo, near Victor Castro's, and from the waters of the bay to the comb or ridge of the high mountains back.

I have been over the greatest portion of the land several times; the average width of the claim, as set up by the Peraltas, from the said Cerrito, down to the southerward, as far as opposite the Red Woods, would be between eight and nine miles. From that point opposite the Red Woods, still southerly, to San Leandro Creek, I think the width from the bay to the comb or ridge of the high mountains would be greater, say about ten or eleven miles. The general average of the width, I think, must be about ten miles. The plain is about six miles wide. I think the distance from San Leandro Creek to the said Cerrito, near Victor Castro's, must be about twenty-three miles.

SAMUEL H. ROBINSON.

May 27th, 1852.

Subscribed and sworn to before me,

JAMES WILSON,
Commissioner.

Filed in office, May 26th, 1852.
(Signed)

GEO. FISHER,
Secretary.

No. 4.

Deposition of F. J. Kerfer.

Office of the Board of Land Commissioners for California,
San Francisco, May 27th, 1852.

On this day, before me, James Wilson, one of the Commissioners for ascertaining and settling private land claims in California, came F. J. Kerfer, a witness produced in behalf of the United States, in the case of Vicente Peralta et al., being No. 4 on the docket of said Commissioners, and, after being duly sworn, testified as follows:

The counsel for claimants was present, and did not object.

F. J. Kerfer, witness introduced by Geo. W. Cooley, Law Agent United States. Witness says that he has a residence upon the land claimed; I am what is called a squatter on the land claimed by the Peraltas as the Rancho San Antonio.

I understand that the Peraltas claim the land from San Leandro Creek on the south, to the hill near Victor Castro's house, on the north; and from the shore of the bay on the west, to the comb or ridge of the high mountains on the east. I have travelled over the said Rancho, or parts of it, some two or three times. I think the width of the rancho as claimed within the above boundaries from west to east would average between nine or ten miles. I live about a half a mile or less from the Encinal Temescal. From my house to the deep creek of San Leandro, I think, must be about ten miles; I have travelled over that ground; I do not know the distance from my house to the hill near Victor Castro's, not having travelled over it.

Interrogatories by Mr. Carpenter, attorney for the Castro claims. Witness says there is a creek running between the houses of Vicente Peralta and Antonio Peralta. It is rolling land along the course of that creek towards the bay; it might be called a succession of little hills.

F. J. KERFER.

May 27th, 1852.

Subscribed and sworn to, before me,

JAMES WILSON,
Commissioner.

Filed in office, May 27th, 1852.
(Signed)

GEO. FISHER,
Secretary.

No. 4.

Deposition of Wm. Abbey.

Office of the Board of Land Commissioners for California.
San Francisco, May 27th, 1852.

On this day, before me, James Wilson, one of the Commissioners for ascertaining and settling private land claims in California, came William Abbey, a witness produced in behalf of the United States, in the case of Vincete Peralta et al., being No. 4 on the docket of said Commissioners, and, after being duly sworn, testified as follows:

Counsel for claimants being present, and did not object.

William Abbey, a witness produced by Geo. W. Cooley, Esq., Law Agent United States, says: I live on the land claimed by the Peraltas as part of the Rancho San Antonio. I do not claim any land, or cultivate any of consequence; I merely live on that rancho, and my business is gunning or shooting game for the market. I have been residing on that rancho almost the whole time, for nearly three years last past; I know all the ground very well from San Leandro Creek to the hill or cerrito near Victor Castro's, and from the waters of the bay to the ridge or comb of the mountains. I have often encamped in various places all over the rancho. From the mouth of San Leandro Creek to the cerrito near Victor Castro's is between twenty-eight and thirty miles, according to my best judgment, along the coast; I have been over it very many times. The average width from the waters of the bay to the ridge or comb of the mountains is about ten miles; it is less in some places, and in some places it is more; in one place it is nearly fourteen miles in width. The average width of the plain land, from the waters of the bay to the foot hills, the mountains, is between five and a half and six miles.

The plain land is, generally speaking, very rich, good land, with sufficient water near the surface; from the foot hills to the top of the mountains it is very excellent grazing land. There are several ravines of superior grazing land, rich and good, as you pass along the mountains. There is very little of it rocky, barren land. There is a creek that passes from the mountains towards the bay, between the houses of Vicente and Antonio Peralta; it is called San Antonio Creek.

WM. ABBEY.

May 27th, 1852.

Subscribed and sworn to, before me,

JAMES WILSON,
Commissioner.

Filed in office, May 27th, 1852.
(Signed)

GEO. FISHER,
Secretary.

No. 4.

Deposition of Wm. Patten.

Office of the Board of Land Commissioners for California.
San Francisco, May 27th, 1852.

On this day, before me, James Wilson, one of the Commissioners for ascertaining and settling private land claims in California, came William Patten, a witness produced in behalf of the United States, in the case of Vicente Peralta et al., being No. 4 on the docket of the said Commissioners, and, after being duly sworn, testified as follows:

The counsel for the claimant being present, and did not object.

William Patten, witness offered by Geo. W. Cooley, Law Agent, &c.:—I occupy a tract of land for which I have a contract in writing with Antonio Peralta, by which he, the said Antonio Peralta, agrees that if the land I occupy should finally prove to be his, he is to give me a long lease of the land I so occupy. I have been living on it, under my agreement, for about two years and a half. The land I occupy is part of the Rancho San Antonio, as I understand it to be claimed by the Peraltas. I understand the claims of the Peraltas to cover all the land from the San Leandro Creek to the cerrito near Victor Castro's, and from the ridge of the high mountain to the shore of the bay. I have been over the land several times in various directions, and am well acquainted with it. The width, I think, must average over ten miles. The length, from San Leandro Creek to the cerrito near Victor Castro's, between twenty and twenty-five miles. The width of the plain, from the waters of the bay to the foot hills of the mountains, will average from six to seven miles. The quality of the land on the plains is very good, and valuable for cultivation. The hilly, rolling, and mountainous lands are very excellent grazing lands, covered with a heavy, thick growth of rich good feed for stock.

The creek which runs between Vicente and Antonio Peralta's house is called San Antonio Creek; near where that creek discharges itself into an estuary or arm of the bay, and near to tide water, there is a prominent conical hill, which is called, in the Spanish language, a cerrito.

WILLIAM PATTEN.

May 27th, 1852.

Subscribed and sworn to, before me,

JAMES WILSON,
Commissioner.

Filed in office, May 27th, 1852.
(Signed)

GEO. FISHER,
Secretary.

Deposition of M. G. Vallejo.

Office of the Board of Commissioners of California Land Claims.

On this day, before me, Harry J. Thornton, one of the Commissioners for ascertaining and settling private land claims in the State of California, came M. G. Vallejo, a witness produced in behalf of the claimant, Vicente Peralta, whose petition is No. 4 on the docket of the Board, and was duly sworn.

The law agent was notified, and attended.

Questions by claimant's counsel, in the matter of the claims of Vicente Peralta et al., which is No. 4 on the docket of the Land Commission.

Question 1. What is your name and place of residence?

Answer. My name is Mariano Guadalupe Vallejo; my age is 44 years, and my residence is at Sonoma.

Question 2. Are you acquainted with the handwriting of Don Pablo Vicente de Sola? If so, look upon the document now here shown you, marked A, and filed with the petition of Vicente Peralta et al., which is No. 4 on the docket of the Land Commission, and say whether his name written thereon is in his genuine handwriting.

Answer. I have seen Governor Sola write. His name on the document now shown me is in his genuine handwriting.

M. G. VALLEJO.

The Law Agent of the United States present. Sworn to and subscribed before me, this 31st of May, 1852.

HARRY J. THORNTON,
Commissioner.

Filed in office, May 31st, 1852.
(Signed) GEO. FISHER,
Secretary.

Deposition of M. G. Vallejo.

Office of the Board of Commissioners of California Land Claims,
San Francisco, May 31, 1852.

On this day, before me, Harry J. Thornton, one of the Commissioners for ascertaining and settling private land claims in the State of California, came Mariano Guadelupe Vallejo, a witness produced in behalf of the claimant, Vicente Peralta, whose petition is No. 4 on the docket of the Board, and was duly sworn. The law agent was notified and attended.

Questions by claimant's counsel, in the matter of the claim of Vicente Peralta et al., which is No. 4 on the docket of the Land Commission.

Question 1. What is your name, age, and residence?

Answer. My name is Mariano Guadalupe Vallejo; my age is 44 years, and my residence is at Sonoma.

No. 4.

Deposition of Wm. Patten.

Office of the Board of Land Commissioners for California.
San Francisco, May 27th, 1852.

On this day, before me, James Wilson, one of the Commissioners for ascertaining and settling private land claims in California, came William Patten, a witness produced in behalf of the United States, in the case of Vicente Peralta et al., being No. 4 on the docket of the said Commissioners, and, after being duly sworn, testified as follows:

The counsel for the claimant being present, and did not object.

William Patten, witness offered by Geo. W. Cooley, Law Agent, &c.:—I occupy a tract of land for which I have a contract in writing with Antonio Peralta, by which he, the said Antonio Peralta, agrees that if the land I occupy should finally prove to be his, he is to give me a long lease of the land I so occupy. I have been living on it, under my agreement, for about two years and a half. The land I occupy is part of the Rancho San Antonio, as I understand it to be claimed by the Peraltas. I understand the claims of the Peraltas to cover all the land from the San Leandro Creek to the cerrito near Victor Castro's, and from the ridge of the high mountain to the shore of the bay. I have been over the land several times in various directions, and am well acquainted with it. The width, I think, must average over ten miles. The length, from San Leandro Creek to the cerrito near Victor Castro's, between twenty and twenty-five miles. The width of the plain, from the waters of the bay to the foot hills of the mountains, will average from six to seven miles. The quality of the land on the plains is very good, and valuable for cultivation. The hilly, rolling, and mountainous lands are very excellent grazing lands, covered with a heavy, thick growth of rich good feed for stock.

The creek which runs between Vicente and Antonio Peralta's house is called San Antonio Creek; near where that creek discharges itself into an estuary or arm of the bay, and near to tide water, there is a prominent conical hill, which is called, in the Spanish language, a cerrito.

WILLIAM PATTEN.

May 27th, 1852.

Subscribed and sworn to, before me,

JAMES WILSON,
Commissioner.

Filed in office, May 27th, 1852.
(Signed)

GEO. FISHER,
Secretary.

Deposition of M. G. Vallejo.

Office of the Board of Commissioners of California Land Claims.

On this day, before me, Harry J. Thornton, one of the Commissioners for ascertaining and settling private land claims in the State of California, came M. G. Vallejo, a witness produced in behalf of the claimant, Vicente Peralta, whose petition is No. 4 on the docket of the Board, and was duly sworn.

The law agent was notified, and attended.

Questions by claimant's counsel, in the matter of the claims of Vicente Peralta et al., which is No. 4 on the docket of the Land Commission.

Question 1. What is your name and place of residence?

Answer. My name is Mariano Guadalupe Vallejo; my age is 44 years, and my residence is at Sonoma.

Question 2. Are you acquainted with the handwriting of Don Pablo Vicente de Sola? If so, look upon the document now here shown you, marked A, and filed with the petition of Vicente Peralta et al., which is No. 4 on the docket of the Land Commission, and say whether his name written thereon is in his genuine handwriting.

Answer. I have seen Governor Sola write. His name on the document now shown me is in his genuine handwriting.

M. G. VALLEJO.

The Law Agent of the United States present. Sworn to and subscribed before me, this 31st of May, 1852.

HARRY J. THORNTON,
Commissioner.

Filed in office, May 31st, 1852.

(Signed) GEO. FISHER,
Secretary.

Deposition of M. G. Vallejo.

Office of the Board of Commissioners of California Land Claims,
San Francisco, May 31, 1852.

On this day, before me, Harry J. Thornton, one of the Commissioners for ascertaining and settling private land claims in the State of California, came Mariano Guadelupe Vallejo, a witness produced in behalf of the claimant, Vicente Peralta, whose petition is No. 4 on the docket of the Board, and was duly sworn. The law agent was notified and attended.

Questions by claimant's counsel, in the matter of the claim of Vicente Peralta et al., which is No. 4 on the docket of the Land Commission.

Question 1. What is your name, age, and residence?

Answer. My name is Mariano Guadalupe Vallejo; my age is 44 years, and my residence is at Sonoma.

Question 2. Are you acquainted with the handwriting of Arguello, Ignacio Martinez, Juan Miranda, and Nicholas Berreyesa; and if so, look upon the document now here shown to you, marked A, and filed with the petition of Vicente Peralta et al., which is No. 4 on the docket of the Land Commission, and say whether these names written thereon are in their genuine handwriting.

Answer. I have seen Arguello, Ignacio Martinez, Juan Miranda, and Nicolas Berreyesa write, and their names written on the document now shown me are genuine, and in their proper handwriting.

M. G. VALLEJO.

The United States Law Agent present.

Sworn to and subscribed before me this 31st May, 1852.

HARRY J. THORNTON,
Commissioner.

Filed in office May 31st, 1852.

(Signed) GEO. FISHER,
Secretary.

Deposition of B. R. Holiday.

Office of the Board of Land Commissioners for California,
San Francisco, June 4th, 1852.

On this day, before Harry J. Thornton, one of the Commissioners for ascertaining and settling private land claims in California, came B. R. Holiday, a witness produced in behalf of the claimants, Vicente Peralta et al., being No. 4 on the docket of said Commissioners, and was duly sworn. The U. S. Law Agent and counsel for the contestants being present.

Questions by the Claimant.

1. What is your name, age, and place of residence?

Answer. My name, B. R. Holiday; age is twenty-seven (27) years; I reside at Martinez, Contra Costa County.

2. Are you acquainted with the assessor of taxes for the years 1850 and 1851, and if so, state whether you were with him when he assessed the property of Juan Jose and Victor Castro, contestants in this case.

Answer. I am acquainted with the assessor above referred to; his name is Napoleon B. Smith; I was with him at the time he assessed the property of Victor Castro. The assessment of the San Pablo Rancho was made in the name of the heirs of Castro; an extra assessment was made of the individual property of Victor Castro, consisting of one league of land. At the time the question was asked him how much land he possessed in that tract which he claimed as separate property from the estate of San Pablo, he informed the assessor that he could not tell him; that he did not know; that it was the sobrante of the land between the rancho of San Pablo, Pinole Peralta, and the Moraza rancho. At the time, he informed me that

he would give in one league of land, as he did not know the exact quantity. I am acquainted with the land, having been over it several times; said land given in by Victor Castro as his own, and which he claimed under the sobrante, was described by him to me as lying east of the house of said Victor Castro, and also east of the ridge known as the Contra Costa range; said land was cultivated by Victor Castro through his tenants, in 1850; a house at that time was on it, and several persons living in it.

B. R. HOLLIDAY.

Present the United States Law Agent and the Counsel of the Contestants.

Sworn to and subscribed before me this 4th of June, 1852.

HARRY J. THORNTON,
Commissioner.

Filed in office, June 4th, 1852.

(Signed) GEO. FISHER,
Secretary.

Deposition of B. H. Keyser.

Office of the Board of Land Commissioners for California,
San Francisco, June 4th, 1852.

On this day, before Harry J. Thornton, one of the Commissioners for ascertaining and settling private land claims in California, came B. H. Keyser, a witness produced in behalf of the claimants, Vicente Peralta et al., being No. 4 on the docket of said Commissioners, and was duly sworn and testified as follows:

Questions by the Claimant.

1. What is your name, age, and place of residence?

Answer. My name is B. H. Keyser; age is twenty-four (24) years; I reside at Martinez, County of Contra Costa.

2. Do you know anything of a tract of land granted to Juan Jose and Victor Castro, contestants herein, by Gov. Alvarado, known as their sobrante?

Answer. I do. Gov. Alvarado stated to me, as we were riding from Martinez to his house, in San Pablo, that he had granted to his two brothers-in-law, Victor and Juan Jose Castro, a tract of land that was situated back of Victor Castro's house, and east of the hills in rear of said house, and known as the Sheep Pen, there being a sheep corral upon it; and, also, that he had given them a promontory of land that runs out of the San Pablo Valley. Victor Castro has also told me at divers times that the land above described, pointing in the direction of it at the time, was his land, and that of his brother Jose, granted them by Alvarado. He, Castro, has also pointed out to me the dividing line between the rancho of San Pablo and the land which he said was the property of the Peraltas; this line which he pointed out runs east and west across a mound near

his house, and close to the bay, and lying southwesterly from his house. I have since visited what Alvarado called the sheep pen, and found improvements there, and inquired of the occupants of the place if that was the sheep pen of Castro; they said it was, and directed me to the house of Castro, that I found over the coast range of hills, and to the west or southwest of the pen.

B. HENARD. KEYSER.

The Law Agent of the United States and the Counsel of the Contestants present.

Sworn to and subscribed before me this 4th of June, 1852.

HARRY J. THORNTON,
Commissioner.

Filed in office, June 4th, 1852.

GEO. FISHER,
Secretary.

No. 4.—Commissioners' Docket.

Petition of Vicente Peralta for confirmation of the Rancho San Antonio.

Office of the Board of Land Commissioners for California,
San Francisco, May 21st, 1854.

On this day, before me, James Wilson, one of the Commissioners for ascertaining and settling private land claims in California, came Antonio Pacheco, a witness produced in behalf of the claimants, Vicente Peralta et al., whose petition is No. 4 on the docket of said Commissioner, and after being duly sworn, testified as follows: The Law Agent of the United States was notified and attended. The evidence of the witness being given in the Spanish language, and interpreted by Mariano Rodriguez Palmer, Clerk to the said Board of Commissioners.

Antonio Pacheco, a witness offered by the petitioner and examined by counsel in his behalf, says, I was acquainted with Luis Peralta; he is now dead; he died some six or seven months since. I know the boundaries or limits of the Rancho San Antonio, in Contra Costa, said to have been granted to Luis Peralta; I was present when those boundaries or limits were filed. The boundaries were as follows: the southerly boundary was the Arroyo ondo, now called San Leandro; the northern boundary was the cerrito, or little hill, near where Victor Castro now lives. At the foot of the ridge of the mountains there is a rock or bluff, from which, down an arroyito, in the direction of the cerrito, and towards the bay, makes the northern boundary. The arroyito above referred to, starting from or near the said rock or bluff, in its course from or near the said rock or bluff, in its course westwardly towards the bay, passes to the northern side of the cerrito above referred to. The house of Victor Castro is some four or five hundred varas on the north side of the said arroyito. The cerrito lies near the border of the bay. The line as

above described was established in the year 1820 or 1821, but I am not positive about the year. The eastern boundary of said rancho was the comb or ridge of the mountain at the eastward, as far as it could be seen with the natural eye from the house where Don Antonio Peralta lives. The western boundary was the water of the bay embracing the two (Encinals) or oak groves. They were called the Encinal del Temescal and Encinal de San Antonio. The said Louis Peralta was in possession of the Rancho San Antonio from Sept. or Oct. 1821, to the time of his death.

Cross-Interrogatories to the witness by George W. Cooley, Esq., Law Agent United States, in answer to which witness says: I was with Lieutenant Martinez at the time he was giving the possession to Peralta, and we went to the San Leandro, as the southern boundary. I do not recollect exactly the year, but it may have been in 1821 or 1822. I was invited by Don Luis Peralta, to be present as a witness. I was not there as an assisting witness. Domingo Peralta, Nicholas Berreyesa, Louis Peralta, Don Ignacio Martinez, and myself were present at the time. I do not recollect any others. I do not recollect Juan Miranda being present at the time. The assisting witnesses were Domingo Peralta and Nicholas Berreyesa. I am certain Domingo Peralta was one of the assisting witnesses; I am not so certain as to the other. I know that the said rock or bluff at the top of the mountains, the said arroyito and the cerrito as above set out as the northern boundary, was the northern boundary, because the person who gave the possession and the rest of us took position to look through that line, and he gave Peralta possession to that line.

I know the bay to be the western boundary of said rancho, from what was done at that time. All the knowledge I had of the boundaries was what I acquired at the time the possession was given. The possession was given as follows. We first went to the Creek San Leandro, from thence we went on horseback to the Cerrito on the north; when at San Leandro, it was designated as the southern boundary. While we were at the San Leandro, the person who was giving the possession pointed out the comb or ridge of the mountains as the eastern boundary. From the San Leandro we went by the common road, on horseback, to the cerrito on the northern boundary, and there the northern boundary was then designated. While at the cerrito Martinez told Peralta, that the Esteros would be his western boundary.

Louis Peralta lived at the time at the Pueblo de San Jose. He was Sergeant of the Company of San Francisco, and Commissioner of the Pueblo.

Louis Peralta put up a little house of logs and dirt. I do not know the time when. It was a short time—a few months after the possession was given. The house was put up as soon as his cattle were there. The house was within about half a league of the San Lean-

dro, a little more or less, on the northern side of the Creek San Leandro. After Peralta obtained possession, they had some fields sown. The cattle were put on there in 1821, and the next year they had the fields sown. I was familiarly acquainted with the rancho in the year 1827. There were fields of beans, maize, and vegetables in cultivation on the rancho in 1827, for their own use. They did not extend their farming beyond their own wants, because they had no workmen or laborers. The fields in cultivation in 1827 were on the borders of the Esteros. They (the cultivated fields) were some two miles from the house, and towards the western boundary, between the house and the bay.

I do not know the Creek which empties into the Estero, where the steamboats now land. It had no particular name, but was called Arroyito. The fields in cultivation, in 1827, were on both sides of that Arroyito which empties into the Estero, where the steamboats now land. I know the two landings where the steamboats now land. The creek where the sowing fields were, in 1827, empties in the Estero, south of the southern landing where the steamboats now land. The mouth of the creek on which the sowing fields were, is from five hundred to one thousand varas south of the southern steamboat landing. The house where Vicente Peralta now lives, he built some three or four years ago. There was a house near the same spot, built by Vicente Peralta, and occupied by him, which he built some fourteen or fifteen years ago. I was present only once, when Martinez gave possession of said rancho to Peralta.

Interrogatories by counsel for the intervening claim of Castro.

The rancho where Vicente Peralta lives, is called Temiscal; one of the boundaries of the Rancho Temiscal is a creek, which runs between the houses where Vicente Peralta and Antonio Peralta live. The rancho south of that creek, where Antonio Peralta lives, is called San Antonio; so he calls it. It was called Temescal before there was any rancho there; it is an old Indian name of the place.

The rancho-house belonging to the Mission of San Francisco, in Contra Costa, was situated on the banks of the Arroyo of San Pablo. I do not know as there was any sheep corral belonging to the Mission of San Francisco, in Contra Costa. Near the mouth of the creek which runs by the house of Vicente Peralta, and where that creek enters the bay, there is a little willow-grove, or a hillock. There is a ridge of hillocks, or rocks, back of the houses of Vicente Peralta, Domingo Peralta, and Victor Castro, and extending towards San Pablo, and fronting towards the bay. That ridge extends several miles in length. There was a small grove of willows near the creek on which Louis Peralta had his cultivated fields; the grove is not standing now. I mean by Esteros, where the tide or sea-water flows up into the land. The landing, or place to which the steamboats run, is an Estero. The creek upon which the cultivated fields

were, of which I have before spoken, discharges itself into the Estero that passes up from the bay, between the two Encinals. Don Luis Peralta never lived on the Rancho San Antonio, but used to go there to visit his sons after they had houses there.

When we went from the Creek of San Leandro to the cerrito, at the time possession was given as I have before stated, I do not recollect as we dismounted or stopped at all. We did dismount when we got to the cerrito, and I and Domingo Peralta put up a pile of stones as a landmark on the top of the cerrito. We did not go to the rock or bluff at the top of the monntain before stated, but from the cerrito we could see that rock or bluff, and the person who put Peralta in possession, told him to take to that line. The arroyito which runs near the house of Victor Castro is dry in the dry season; in the wet season there is water running in it. That arroyito has no name that I ever heard.

Upon the examination by counsel for petitioner, witness says, Domingo Peralta has lived where he now does some six or seven years, on the northern part of the rancho.

his
ANTONIO X PACHECO.
mark

May 21st, 1852.

Subscribed and sworn to before me,

JAMES WILSON,
Commissioner.

Filed in office May 21st, 1852.
(Signed) GEO. FISHER,
Secretary.

No. 4.

Deposition of A. M. Castro.

Office of the Board of Commissioners of California Land Claims.
San Francisco, July 3d, 1852.

On this day, before me, James Wilson, one of the Commissioners for ascertaining and settling private Land Claims in the State of California, came Antonio Maria Castro, a witness in behalf of Juan Jose and Victor Castro, contestants in case No. 4 on the Docket of the Board, and was duly sworn. His evidence, being given in the Spanish language, was interpreted by the Secretary.

The Law Agent was notified, and did attend. Mr. Rose, Counsel for the Peraltas, objects to the following deposition being read in evidence. 1st. On the ground that cause has been assigned, and opened for hearing; and, 2d, for want of reasonable and proper notice.

Antonio Castro, a witness introduced by the contestants to the claim of Vicente Peralta and others, for the confirmation of their claim to the Rancho San Antonio, in Contra Costa, being duly

sworn, testifies and says: My name is Antonio Maria Castro, and I reside at San Pablo, in the County of Contra Costa. I am fifty-two years of age. I have lived at San Pablo for about thirty-five years last past. Commencing at San Leandro Creek, and proceeding northward along the shore of the Bay of San Francisco, the first stream of Leon, the next is Arroyito San Antonio, the next is the Arroyo of San Antonio, the next is the Arroyito de la Canada del Indito; it is the gully or the ravine of the Little Indians so called. There are some other small streams that are very small, and have no names, mere spring or auches. There is a small creek near the house of Vicente Peralta, called the Arroyo de Temescal; thence on northwardly towards San Pablo there are other creeks: one is El Arroyo del aguaje de Temiscal, another the Arroyo de los Codornizes. The hills, or lomas, from San Leandro Creek going northwardly to the Creek of San Antonio, are called the Hills of San Antonio, or Lomas San Antonio; the hills from San Antonio Creek to the Creek Temescal, are called Intermedios. There are no more lomas, but there is one little hillock (lomita), called Temescal; it is on the beach at the mouth of the Creek Temescal; it is an artificial mound, made by the Indians. Going northwardly there is a hillock or mound like the last mentioned, called Codornizes; the next one is a little island, called Lomita de la Solita; the next one is El Cerrito de San Pablo. The Lomitos Temescal, Codornizes, and (Indian Mounds) were there before the Peraltas came there to live. The Peraltas, when they first came to settle in Contra Costa, they settled near the San Leandro Creek, between the lagoon and the hills, nearer the lagoon than the hills. It was about equal distant from the house they occupied to the San Leandro Creek, the hills, and the lagoon. This was the first year. They then removed to where Antonio Maria Peralta now lives, being near the San Antonio Creek. About nine or ten years ago, the father, Louis Peralta, separated his sons, and he sent Vicente Peralta and Domingo Peralta to settle at Temiscal, where Vicente Peralta now resides. Vicente inclosed and cultivated a field at Temiscal, about 1500 varas by about 500 varas in dimensions. Domingo Peralta also inclosed another field on the other side of the Creek Temescal, about 500 varas by 350 varas in dimension. Domingo Peralta has been occupying the hillock or mound Codornizes about six years last past. They allowed cattle and horses to range over the lands, the stock to belonging to the father. The father did not allow the stock to range there, as I have understood. This I do not know of my own knowledge.

The Peraltas never occupied either of encinals, except the stock occasionally ranged there, as I have above stated.

his
ANTONIO MARIA ⋈ CASTRO.
mark.

July 3d, 1852, subscribed and sworn to before me.

JAMES WILSON,
Commissioner.

Filed in office July 15th, 1852.

(Signed) GEO. FISHER,
Secretary.

Deposition of J. M. Amador.

San Francisco, December 17th, 1852.

On this day, before Commissioner Harry J. Thornton, came Jose Maria Amador, a witness in behalf of the claimants, Vicente Peralta et al., petition No. 4, and was duly sworn, his evidence being interpreted by the secretary. The U. S. Associate Law Agent was present.

Question by claimant.

1st. What is your name, age, and place of residence?

Answer. My name is Jose Maria Amador; my age is sixty-two years; I was born in San Francisco, and have resided in California ever since.

Question 2. Were you acquainted with Don Louis Peralta, the father of the claimants?

Answer. I was acquainted with him from my childhood, and my residence was about five leagues and a half from the rancho of Peralta, claimed in this case.

Question. Did or not Louis Peralta occupy this rancho, and to what extent as to its limits, and how long did he so occupy it?

Answer. He did occupy this rancho; first he occupied only from San Leandro Creek to the Temiscal, owing to an obstacle interposed by the Padres of the Mission of San Francisco. He afterwards occupied what was reclaimed from him and again given to him beyond the Temiscal up to the Cerritos.

Cross-examined by the U. S. Law Agent.

Cross-interrogatory 1. How long did Luis Peralta continue to occupy the portion between the Temiscal and Cerrito?

Answer. He occupied that portion from the date of his grant, in 1820.

Question 2. Is the Cerrito of which you speak, the same Cerrito which is near the house of Victor Castro?

Answer. It is.

Question 3. What is the name of the Arroyo which runs very near the house of Victor Castro?

Answer. I do not know it by any name.

Question 4. Do you know any arroyo on Contra Costa, on or near the land of Peralta, by the name of San Antonio?

Answer. I do know such an arroyo, which was by or very near the old house of Peralta.

Question 5. How long have you known it by the name of San Antonio?

Answer. Ever since the rancho was founded.

Question 6. Did you understand that the Ranchos of Peralta comprehended or took in the Palos Colorados?

Answer. I know that the Peraltas asked for the land from the summit line (Sierra) of the mountains, where the Red Woods begin, to the sea.

Question 7. What is the name of the Cerrito which is the nothern boundary of the land of Peralta?

Answer. I always heard it called the Cerrito.

Question 8. Did you ever hear it called the Cerrito of San Antonio?

Answer. No, I never did; I know it as the northern limit of the Peralta land, and it runs down to the sea.

Further question by Claimants.

1. What was the name of the rock which you mention as being opposite the mountain to the Cerrito, which you say was the northern limit of Peralta's land, and was or not that high rock a landmark of the Peralta ranch?

Answer. It was called Pan de Azucor or sugar-loaf; it was understood among us as being one of the landmarks of the Peralta rancho.

JOSE MARIA AMADOR.

The Law Agent present.

Sworn to and subscribed before me (by his mark), this 17th of December, 1852.

H. J. THORNTON,
Commissioner.

Filed in office December 17th, 1852.

(Signed) GEO. FISHER,
Secretary.

Deposition of Jose de la Rosa.

San Francisco, January 12, 1853.

On this day, before Commissioner H. J. Thornton, came Jose de la Rosa, a witness in behalf of the claimants, Vicente Peralta et al., petition No. 4, and was duly sworn as evidence, being interpreted by the Secretary.

The U. S. Associate Law Agent was present.

Deposition of Don Jose de la Rosa.

My name is Jose de la Rosa, my age is 62 years, and my place of residence is at Sonoma. I am acquainted with the signatures of the former Governor of California, Don Luis Antonio Arguello, of Ignacio Martinez, of Juan Miranda, and of Nicholas Berreyesa, having seen them write their names. The signatures in and on the document now here shown me, marked A, and filed with the depositions

in the claim of Vicente Peralta et al., No. 4, are their true signatures.

JOSE DE LA ROSA.

Sworn to and subscribed before me, this 12th January, 1853.

HARRY J. THORNTON,
Commissioner.

Filed in office January 12th, 1853.

(Signed) GEO. FISHER,
Secretary.

San Francisco, January 15th, 1853.

On this day, before Commissioner Harry J. Thornton, came Jose de los Santos Berreyesa, a witness in behalf of the claimants, Vicente Peralta et al., petition No. 4, and was duly sworn, his evidence being interpreted by the Secretary.

The U. S. Associate Law Agent was present.

Deposition of Jose de los Santos Berreyesa, Claim No. 4.

Witness says his name is Jose de los Santos Berreyesa, his age 35 years, and his residence is Martinez; that he is the son-in-law of late Ignacio Martinez, and the nephew of Nicholas Berreyesa, and that the signatures of said Martinez and Berreyesa and of Juan Miranda, which are written on the document now here shown me, marked A, and filed with the deposition of Salvio Pacheco in the claim of Vicente Peralta et al., No. 4, are true and genuine, that he knows them to be true from having often seen them write.

JOSE S. BERREYESA.

U. S. Law Agent present.

Sworn to and subscribed before me, this 15th of July, 1853.

HARRY J. THORNTON,
Commissioner.

Filed in office January 15th, 1853.

(Signed) GEO. FISHER,
Secretary.

No. 1.

Document A, annexed to the Deposition of M. G. Vallejo.

Don Pablo Vicente de Sola, Gobernador Politico y Militar de esta nueva California e Inspector de los Tropas, etc.

A consequencia de la solicitud qe el Sargento de la Compania de Caballiria del Presidio de San Francisco, Luis Peralta, hizo ante este Gobierno en 20 de Junio de 1820 para poner un Rancho o Sitio para Cria de ganado mayor le concedio en nombre de S. M. qe Dios que, des pues de haber oydo en justicia a los R. R. P. P. Mintros, de la Mison. de Sn. Fran'co, el reclamo que hicieron, habiendo nombrado a el Teniente de la Compa. de Cabaleria de dho Presidio Dn. Ygnacio Martinez par. qe. lo diese posesion de dho terreno y se efectuo, senalandole los linderos como una y media leguas del Cerrito de San

Antonio, hacia la purte del arroyo de Sn. Leandro Serviendo de lugar divisorio un arroyito qe. sale de la Sierra o Lomeria, corriendo este hasta la playa, donde remata un montesito de Sausal figandole en dho Sitio las cuatro mohoneras; y pa. qe. en todo tpo Conste la Concesion qe. sele ha hecho a dho Sargto. Peralta en atencion a los cuarenta anos qe. ha servido honrudamte. en la Carrera militar le doy este documento firmado en el Presidio de Monterrey de la Alta California a diez y ocho dias del mes de Octubre de 1822. Segundo de la Independencia Mexicana.

PABLO VIZENTE DE SOLA.

Filed in office May 27th, 1852.

GEORGE FISHER,
Secretary.

[1. S. D. K.]

B. Expediente.

Monterrey, 14 de Agosto, 1818.

Los R. P. ministros de las misiones de Santa Clara y de San Jose, informaran a continuacion sobre si el paraje que solicite el suplicante perjudica a algunas de las Misiones pa. en ni vista determinor lo que convenga.

SOLA.

Mision de Santa Clara, Agosto 17, de 1818.

Los Rs ministros de et ha Mos. decimos que nada tenemos que informar ni en pro ni en contra la solicitud del suplicante por no ser ni perte necerle el dho. para je solicitado a la sobre dha. Mision Legun la ultima determinacion del Supor. Govo. que el rio de Guadelupe fuese la linea divisoria entre Pueblo y Mn.

FR. JOSE VIADER.

Mision del Sr. San Jose, 18 de Agosto, 1818.

En nombre de està Mision decimos que el sitio pedido pro el suplicante esta muy lejos de poder causarla perjuiceas: y en este consepto ana de que se le puede otorgar si le pareriere bien al Supor. Gobierno y pa. su constancia lo firmo en dha Mision mesydia.

FR. NARCISO DURAN.

Sor. Govor.

Luis Peralta, Sargto. de la Compa. del Rl. Presidio de San Francisco y Comisionado de este Pueblo de S. Jose de Guadelupe, con el devido respeto y Subordinacion que deve, parece hante V. S. y dise que.

A distancia de dos leguas poco mas de dho pueblo, por el Rizo abajo esta un citio o paraje en la oria de dho rizo, nombrado Portudo la Rancheria del Chino; y desde este al arroyo que yaman del

Coyote abra una legua, y formando entre dho arroya y riyo una especie de rincon hasta Contra los esteros que puede tener de largo una y media legua poco mas o menos, cuyo sitio y terreno pide a V. S. le conceda para poner en el un ranchito de todos sus bienecitos de Campo, con lo que hevitara la perdida que de eyos esta esperimentado en el dia lo que le resulta en gravissimo dano y perjuicio de su cresida familia.

Por tanto pide y suplica a la pieda benigna de V. S. se digne con sederle la gracia que solicita si fuere del superior agrado de V. S. de lo que recivira bastante gracia.

D. N. S. G. a V. S. sus as Pueblo de San Jose, 23 de Julio de 1818, B. L. M. de V. S. Sn menor Sudto.

LUIS PERALTA.

D. Pablo Vizente de Sola Tente. Coronel de los Reales Exercitos Gobernador Politico y Militar de la Na. California y Inspector de sus Tropas.

En vertud de la solicitud que precede del Sargento Luis Peralta, Comisionado del Pueblo de San Jose y de los informes que dieron los R. P. Ministros de Santa Clara y San Jose sobre el sitio pa ganados que pretende, se lo confiero en los terminos que expresa el documento que se le entrego pa en Constancia.

Monterrey, 7 de Setiembre, de 1818.

[3 S. D. K.]

Don Pablo Visente de Sola, teniente Coronel de los Reales Exercitos, Gobernador Politico y Militar de la nueva California y Inspector de sus Tropas, &c.

Haviendoze presentado en este Gobierno el Sargento Luis Peralta, Comisionado del Pueblo de Sn. Jose de Guadalupe con un memorial solicitando el paraje nombrado la rancheria del Chino como distancia de dos leguas poco mas o menos no abajo de dho Pueblo y de su pertenencia, pa poner un ranchito con bienes de Campo; y haviendo pedido informe alos Rs. Ps. Ministros de los Santos Misiones de Santa Clara y Sn. Jose y expuesto no pertenecerles, ni perjudicarles he tenido a bien en concederle a nombre de S. M. Q. D. G. en atencion a sus dilatados servicios qe. ha hecho en la carrera militar y tambien pa. qe. dispute de ese alivio la dilatuda familia de hijos qe. tiene y con la expresa calidad de qe. si algun tiempo necesitase del citado terreno el vecindario del repetido Pueblo quede pa. el y qe. se le proporcione otro pa. no sufiur perjuicio algno. de sus intereses: y de este documts. se pondra copia a la letra en el archivo que existe en el mui repetido Pueblo, ais como queda el origl. en el de esta, para que lo posea por si, y por sus herederos, fabricando la casa y viviendas qe. necesite, e introduzea el ganado qe. tenga advertido de qe. esta posesion no deve perjudicar en

ningun tiempo a los bienes de la comunidad de los vecinos del repetido Pueblo, en cuyo justificado caso los reunira con ellos, o solicitara algun otro paraje libre de inconvenientes. Prrva.

M.

Monterey, 7 de Septre., de 1818.

Sor. Govor.—Muy Sor Mio.

Luis Peralta, Sargte. de la Compa. del Rl. Preso. de S. Francisco, y por el Superior Govor. Comisionado de este Pueblo de S. Jose de Guadelupe, con el devido respeto y subordinacion que deve, parece haute V. S. dise que a distancia de ocho leguas de la Mision de San Jose, rumvo al norte o norueste por la Costa esta un arroyo nombrado por los R. P. de dha mision, de San Leandro; y desde este ha una lomita que esta junta a la plaza, por el mismo rumvo y costa habr cuatro o cinco leguas, cuyo citio y terreno pide y suplica se le conceda para poner en el un rancho de todos sus bienes de campo, para por este medio hevitor la grande pordida y estravio que de heyos esta esperimentado la que resulta en grave dano y perjudicio de su cresida familia.

Por tanto pide y suplica a la pieda benigna de V. S. se digne concederle la gracia que solicita, si fuere del superior hagrado de V. S. de lo que recivira bastante gracia.

Ntro S. G. a V. S. ms. as. Pueblo de Sn. Jose 20 de Junio de 1820.

B. L. M. de V. S.

LUIS PERALTA.

Mission de la Soledad, Agosto 3 de 1820.

El Capiton Don Luis Antonio de Arguello, Comandte. del Presidio de San Francisco, nombrara un oficial o Sargento de su confianza para ponerlo en posecion del terreno que solicita el Sargento Luis Peralta Comisionado del Pueblo de Sn. Jose, previo aviso de Citacion que deveria hacer para ello o los R. R. P. P. Mintros de la antiqua mision a dho terreno, fixando en el mohoneras por los quatro rumbos, para que se sepa en todo trempo la extension de los enunciados terrenos que se le ha concedido y concluidas que scan estas diligencias se me remitiran originales para archivarlos y darle el devido justificante; An lo proveyo mando el Sor Coronel Don Pablo Vizente de Sola Gobernador Politico y militar de esta nueva California, y lo firmo.

SOLA.

San Franco. 10 de Agosto, 1820.

El teniente de mi Compania Don Ignacio Martinez pasara a practicor lo prevenido en el antecedente Superior decreto.

ARGUELLO.

San Jose, 16 de Agosto, 1820.

De porte de ecta mision digo que no hay embarazo de que se conceda al Suplicante el Sitio pe pide; pere el arroyo de Sn. Leandro

donde estan los lanchos en verano devera en todos tiempos estor a disposicion de la mision; y el Corte de ma dera que queda compundido en el Sitio pedido, debera quedor comun segun esta resuelto por las leyes de Indias. Y para que en todos tiempos Courte lo pongo a Continuacion de este documento en dicho dia mes y ano, y lo firmo.

FR. NARCISO DURAN,
Mintro. de dha Mision.

Diligencia pa. poner en posecion del Sitio (llamado San Antonio) al Sargto. Luis Peralta.

En el Sitio y harroyo ondo de San Leandro a diez y seis dias del mes de Agosto de mil ocho Cientos veinte, en virtud del Superior decreto que antecede del Sor Govr. de esta Provincia de la Alta California, Coronel D. Pablo Vicente de Sola, manda que se le de posesion del terrene que soliciti el sargento Luis Peralta; con previa citacion y de acuerdo con el R. P. Fr. Narciso Duran, ministro de la mision de San Jose, pare a dho Sitio, y a presencia de los dos testigos Nicolas Berreyeza, y Juan Miranda, se le senalaron los linderos que dividen su terreno que son: ell arroyo hondo llamado San Leandro y distante de este (como unos cinco leguas) estan dos serritos: el primero esta junta a la plaza siquiendole a este el de San Antonio sirviendo de linderos, partiendo o dividiendo el terreno el Arrollito que sale de la parte de la Sierra el que coire de la falta del refirido Serrito de San Antonio y en la boca de la canadita esta un penasco elevado en forma de majonera mirando hasi al Norte fijando en ambos linderos cuatro majoneras.

Y en vista de no perjudicar este individuo a ningun colindante, y en virtud de las facultades que me son Conferidas y en nombre de nuestro Catolico monarca el Senor D. Fernando 7o. (Q. D. G.) puse en posesion del referido terreno al mencionado Luis Peralta.

Y para que en todo tiempo Conste pr. bastante y en devida forma de derecho no se le ponga impedimento alguna, lo firme con los dos testigos de aristencia en dho dia mes y ano.

[7 S. D. K.]

YGNACIO MARTINEZ,

De asistencia,
NICOLAS BERRELLESA.
De asistencia,
JUAN MIRANDA.

Mision de San Carlos, 30 de Agosto, de 1820.

En atencion al justo reclamo que hace el Rdo. Padre Fray Juan Cabot, como Mtro de la Mision de San Francisco constante en la carta unida a este Expediente donde manifieste no haver cumplido el Tente. Don Ygnacio Martinez mi decreto de 30 de Agosto, y que pr. esta falta se le ha dado posecion tambien de algunas tierras que poseia dha Mision. Separensele al Sargto. Luis Peralta de las que se le han asignado, y que quedin como antes estaban en favor de los

Neofitos de la repetida Mision de San Franco. y concluida esta operacion con vista y Conocimto. de los Padres Mtros de ella se me devolvera este expediente para su Conclusion.

SOLA.

Mision de N. P. S. Franco., 14 de Septiembre, de 1820.

[8 S. D. K.] En virtud de tener posesion esta Mision desde el mes ste Noviembre del ano anterior concedida por el Superior Govierno para Siembras y poder pastear las borregos hasto un arroyo distante de la Cura del rancho como do tres y media leguas o cuatro rumbo a San Jose, desde Cuyo paraje hasto el arroyo nombrado de S. Leando, no hay inconviente para que se le pongan los linderos al Sargento Luis Peralta. Y para que conste en todo tiempo le firmamos los Ministros de la referida Mision en dicho dia mes y ano.

FR. BLAS ORDAZ.

FR. JUAN CABOT.

Diligencia de pasar, 2a vez a senalarle nuevos linderos al sitio del Sargte Luis Peralta.

En el mismo sitio y arroyo ondo de San Leandro a dies y seis deas del mes de Septiembre de mil ocho cientos veinte: en virtud del le gundo decreto que antecede del Sor. Govor. de Esta Provincia de la Alta California, Coronel D. Pablo Vizente de Sola mande que se le sepa re al Sargento Luis Peralta de los tierros que se le haviou asignado, senalondole nuevamente los linderos como una y media leguas del Serrito de San Antonio hacia la parte del Arroyo de San Leandro, sirviendo de lugor divisorio un arroyito que sale de la [9 S. D. K.] Sierra o Lomerias Corriendo este hasta la playa donde remata un montecito de Sausal, fijandose en dho sitio los cuatro mohoneras, lo que seran validas, y no los que antes se le senalaron en el Serrito de San Antonio; y pa. que Conste lo firme con los dos de asistencia.

YGNACIO MARTINEZ,

De asistencia, NICOLAS BERRELLESA.
De asistencia,
JUAN MIRANDA.

Monterrey, 18 de Octe. de 1822.

En esta dia expedio en favor del Sargento Luis Peralta el Gobernador de esta Provincia el documento justificante del terreno que se le ha cedido que consta en esta foja la diligencia de posesion que el teniente de su Compa. Don. Ignacio Martinez le dio pn. orn que para ello le communico el mismo gobierno y este documento quedara archivado en el repetido gobierno.

SOLA.

[10 S. D. K.]

Sor Capn., Muy Sor. mio.;

Haviendo pasudo en compania de mi tente el Sor Don Ygno.

Martinez al Sitio o terreno que con fha de Octubre del ana pasado tengo pedido por el conducte de V. al Sor. Gover. y con arreglo al superior decreto de su Sria fha en la Mison. de la Soledad a qe. de Agosto del presente ano se me dio posesion del dho terreno a nombre de N. Soberano que D. G. obligandome dho Sor a poner los Correspondientes Mojoneras para su constancia en tado Spo. y en virtud de esta operacion el R. P. F. Juan Cabot, mtro de la Mison. de S. Franco. hace presente al Sor Govor. que mi Tente me dio la posecion del terreno hasta una legua y media o dos escasos de la Casa del Rancho de dha Misn. y que atropego con la posecion de otro corral de borregos puesto por el Mayordomo, que quedava dos leguas a mas; el que no vimos como lo puede decir mi Fte., en cuya virtud puedo decid a Vd. que se obro sin malicia; y en atencion al reclomo que hace su Ra. al Sor Gover. dispone in Sica se me separen de las que se me havion asignano, las tierras de que ya tenia tomado posecion el Rancho de la Misn., a lo que precisamente estoy pronto a obedecer; pero hago presente a Vd. lo primero que cuando yo pedi este terreno, no tenia mas dueno que N. Soberano; lo segundo quo ci in Ra. lo pidio fue despues de haverlo pedido yo, como costa par su Causa a su Ra. se le consede luego, ya mi despues de tres memoriales como le Costa a V. y si say acredor a esta gracia (me purese) se me devia conceder a mis primero que a su Ra. desde aquel tpo; esto supuesto el mayordomo puso el rancho de borregos en terreno que no hera de la Mision, y como esta metio su ganado el terreno hautes de pedirlo que se le concediese, tuvo Campo de ponerlo en donde le parecia; lo que yo no pude hacer sin emborgo de que po previ esto, como se lo dije a Vd.

El Rdo. P. le dice al Sor Govor. que no me hace falta el terreno y que es mucha la estension que ocupo; pero yo hago presente a V. que no me parue mucho cinco leguas en una angostura como ya sude V. que es desde la playa a la Sierra y que todo no esta bueno, come le Costa a mi Tente pues ocupa una gran parte una lomeria compuesta de esteros y varrancos que no esta buena para el efecto; y tanta falta me hoce que por ella he perdielo mucho ganudo.

Yo no digo que a la Misn. no le hora falta una Cortida de terreno que su Ra. Solicita se me quite que es lo mejor de lo que se me habea asignado; pera por esta falta no perderia la Mison. sus ganados cuando le cuento cuatro ranchos con este, con suficientes terrenos para sus ganados como le podia decir un practico que los reconozca que sea desapasionado; y como por este rancho de la Mision se me quita lo Myor del terreno que la piedo del Sor Govor. se habia dignado concederme en nombre de Sn. M. que D. G. precisamente me conformo por obdecer, y habiendome dicho mi Tente que V. le hablia dicho que si yo no quedaba conforme se echasen medidas, asi di luego en ello por obedecer haun que me considero con derecho al citado terreno por haverlo pedido primero que su Ra y como no es tonta la falta que le hace a la Mision lu Cortida del

[12 S. D. K.] terreno que in Ra Solicita se me quite preveo que solo es per estruharme de donde dimanaran repetidos quejas can que mobstaron a la superiorie ad y siempre lo padesera la parte mas flaca.

Por tanto si V. Considera qe mio Cortas meritos no aleansan a merecer se me deje lo qe a nombre de mi Soberono se me habia asignado a lo menos qe no hayga quejas, por que no asiendo Cuenta de la lomeria qe digo, es regulor que los bienes de Campo busquen la amplitud de llano y los pastos por la estreches en que guedan.

Todo lo que hago presente a V. a fia de qe si V. lo haya por conveniente lo haya a el Sor Govor. para que sue Sria disponga lo qe fuera de su superior agrado.

M. S. G. a Vc. ms. as. Pueblo Sn. Jose 14 de Octue. de 1820. B. S. M. de Vd. Su menor Sudo.

LUIS PERALTA.

La parte Contenida en esta instancia se presea to a mi por medio de dos memoriales lo qe pose a los Sups. manos de V. S. y aun qe del primero no se seribio proveydo mi dudo por las muchas occupas. qe diaramente le rodeana V. S. pero haviendo decretado en el Segundo que la instancia le hiciese la parte en derectrura a V. S. asi lo verifice como era justo y de Ley. y tuvo el efecto favorable que apete cia la parte citada como se evidencia del decreto de V. S. fha en la Soledad, a 3 de Agosto del ano anterior, en cuya virtud se procedio a darle tado Cumplimto. como causta de la diligencia practi-

[13 S. D. K.] cada pr. el Teniente de mi Compa. Dn. Ygnacio Martine en qe. le dio la posesion Correspondiente a nombre de S. M. cuyos documtes. dirije a manos de V. S. despues de quedor posesionado el interesado; pero como no faltou objecciones importunas, y re vio V. S. etacade por ellas, desaprobo lo practicado, y como la porte interesada no se conformo segun me lo manifesto, y yo le conterte qe. en las otras instancias tenia informade a V. S. no perjudicava se Sitio a ninguna otra posesion, como ose lo era Sor Gobernador, pues ni la Mision de San Franco. pensaba entonces en dho terreno de Sn. Pablo hasta despues de algs. meses; no quiero yo meterme en alegor nada, y qe. podia en derechura hacerlo a V. S. presente. Sin conborge me poso el adjunto memorial, qe. aun qe. no queria presentarlo a V. S. por no tener coneccion con el Servicio pero ahora movulo de Compasion, en Consideracion a su numeroso familia, su edad abanzada y sus servicios ameritados me veo en la precision de manifestor a V. S. mis Conceptos en favor de este individuo para que V. S. le hoga la justicia que tenga a bien en vista de ellos.

Este parte pues, Sor Gobernador, aun precin diendo de ser un militor, sobre cuarenta anos de Serbicios, tiene echos muchos particulares a las Misso. de Sn. Francisco, St. Clara, Sor Sn. Jose y St. Cruz; mueha parte de la Conquista de ellos, se la deven a el; su salud Case la ha sacrificado en continuos salidas a recoger Sus Cim-

arones, y ahora es muy doloroso qe. pr un palmo de tierra, hagala de Sn. Franco. puestole pleyto, siendo mucha verdad cuanto dice en este memorial qe. la citado Missn. de Sn. Franco. todo se vuelve [14 S. D. K.] ranchos, casi por todos los rumbos, pues hosta ahora tiene apropiado cuasi todos los sitios, y por comi gurente sujetos a todos a una utreches muy miserable V. S. sobre todo provera lo que fuere de su superior agrado.

LUIS ANTONIO ARGUELLO.

San Francisco, 23 de Junio de 1821.

[15 S. D. K.]

Relacion que manifesta la estension qe. ocupa el Terreno qe. se me tiene concedido y dadoseme la posesion desde el ano 20, y es como sigue.

Por la Costa de la Misn. de St. Jose, rumbo al norueste esta en arroyo hondo nombrado Sn. Leandro lindero divisorio con dha Misn. de Sn. Jose, y desde aque a un serrito redondo nombrado Sn. Anto. lindero divisorio con el vecino Franco. Castro, cuyo tramo tiene de largo poco mas de 4 leguas, y como es la parte mas angosta de la Costa, en todo lo mas no tiene media legua de amho desde la Sierra a la mor.

En dicho tramo hay en una porte 2 arrollitos poguenos que bajon de la Sierra, y en tiempo de aguas corren y vacian sus aguas en el mor en lo restante del ano se mantienen secos porque su Corteda de agua se mete al Centro de la Cierra.

En otra parte hay tambien dos arrollitos de la misma naturaleza, el uno de ellos riega un pequeno Sausal, qe. esta junto a los esteros, en cuyos margenes se hasen las suembras de temporal, pr. qe. la escases de agua no da lugor a scembras de rega dillo.

Tambien hay por la orilla del mor un bosque de encinal tan inevitable y sin agua qe. hosta el dia no le apatece el ganado, sirviendole de arrevadero unos Sausalitos peguenos y encinos qe. hay en los margines de los arrollitos y encienos en los laderas de los lomas.

Yen virtud de qe. mis hienes de Campo padecion grande estravio de qe. resultaba notable atraso a mi Crecida familia pedi y se me concedio el referido terreno, y sin emborgo de su estreches, escases de agua, y tener una parte ocupada una lomeria compuestas de esteras qe. no son buenas para el efecto, se mantiene en pacifica quietud 1300 Cabezas de ganudo vacuno, 2 manados de yeguas yuna manada aburrada.

Cuya relacion poso a los Superiores manos del Sor Comte. Gral en Complimte. de la Superior orden de 7 de Octe. del presente ano.

LUIS PERALTA.

Rancho de Sn. Anto. 19 de Dice. de 1827.

[16 S. D. K.] [For diagram see original, p. 61.]

LUIS PERALTA.

Office of the Surveyor General of the United States for California.

I, Samuel D. King, Surveyor-General of the United States for the

State of California, and as such, now having in my office and under my charge and custody, a portion of the archives of the former Spanish and Mexican Territory, or Department of Upper California, do hereby certify, that the sixteen preceding and hereunto annexed pages of tracing paper, numbered from one to sixteen, inclusive, and each of which is verified by my initials (S. D. K.), exhibit true and accurate copies of certain documents now on file, and forming part of the said archives in my office.

In testimony whereof I have hereunto signed my name officially, and affixed my private seal (not having a seal of office), at the City of San Francisco, this twentieth day of August, 1851.

SAMUEL D. KING,
Sur. Gen. Cal.

Filed January 21, 1852.

J. B. CARR,
Sec.

[1 S. D. K.]

Espediente.

Promovido por Dn. Igno. Peralta in solicitud del paraje nombrado Sn. Antonio.

1844.

345.

[2 S. D. K.]

Sello Quarto Dos Reales.

Habilitado provisionalmente por la Aduana maritima del puerto de Monterrey en el Departamento de los Californias para los anos de mil ocho cientos cuarenta y cuatro y mil ocho cientos cuarenta y cimo.

PABLO DE LA GUERRA.

MICHELTORENA.
Ada. Maritima de Monterey.

C.

Title of Grant to Luis Peralta.

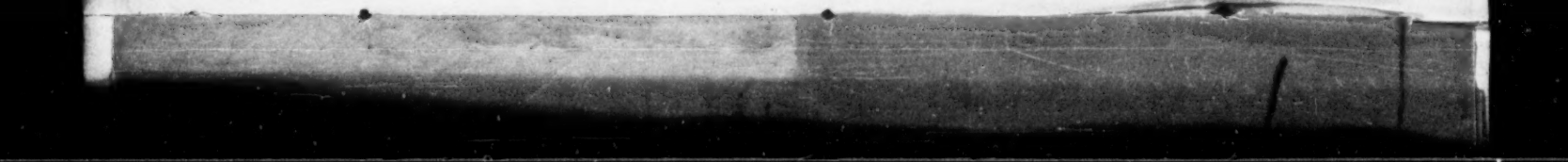
Exmo Sor. Gobr.

Monterrey, Fevo. 12 de 1844.

Infe. el Sor Scrio del Despacho de este Gobno. Michelta.

Ignacio Peralta veuno del Pueblo Sn. Jose con el mayor respeto onte V. E. se presenta y dice qe. el rancho llamodo Sn. Antonio entre la mision de Sn. Jose y punto de Sn. Pablo, le pie concedido a mi Sor Padre en el tiempo qe. gobernava este Deportamento el Sor D. Pablo Vicente de Sola, y en seguida por orden superior dio la posecion el Sor Teniente D. Ignacio Martinez por ser aun deconocida otra clase de autoridad.

Por el adjunto documento vera V. E. qe. se estraviaron los qs. al



interesado aseguraban la propiedad y posesion. En este supuesto suplico a V. E. se digne mandar estender un muevo titulo en favor de mi sor padre Dn. Luis Peralta en la estencion que espresa el documento del Sor Sola y diseno que acompano incluyendo el lomerio hasta su cima o filo y de no hasta el mor P. tanto a V. E. ruego el que haciendo uso de su bondad se sirve concederme lo que pulo Juro &c.

Exmo Sor,

YGNO. PERALTA.

Monterey, Febrero 11 de 1844.

[3 S. D. K.]

Senor Gobernador.

Por los documentos que acompana Dn. Ygnacio Peralta acredita que a su Padre se le concedio el torreno nombrado San Antonio, bajo la estension que demuestra el diseno que me presento, y como hace 22 anos que el gobno. de aguel tiempo hise la Consesion y mandi dor la posesion, habien do los interesados ocupado el terreno desde el ano de 819 creo no hay inconveniente alguno, po. que se le estiende un nuevo titulo: pero al fijarse los linderos por la cumbre de los lomerias sera conbeniente que sea bajo la condicion de no impedir el Corte de madera a los vicinos de la Contra Costa que necesiten pa. sus propios beneficios y no pa. vender. El superior discernimiento de V. E. dispondra lo conveniente.

MANL. JIMENO.

Monterey, Febro. 13 de 1844.

[4 S. D. K.]

Monterey, Febo. 13 de 1844.

Espidase el titulo con las condiciones qe. informa el S. Srio los de Ley y de litarse a los Colindantes a mas de la posesion para evitar reclamos posteriores.

MICHELTA.

Monterey, 13 de Febrero, de 1844.

Vista la peticion con que da principio este espedte, los documentos que acreditan la antigua posesion de D. Luis Peralta, en el terreno nombrado San Antonio, con todo lo demas que se tubo presente y ver combino, de conformidad con las leyes y reglamentos de la materia declaro al indicado Don Luis Peralta dueno en propiedad del dicho terreno que esta colindante al Sureste con el arroyo de San Leandro, al norueste con el arroyo de los Serritos de San Anto., al mar prel Sureste, y con la cumbre de las lomerias por el Nordeste, sin prohibir a los vecinos de la Contra Costa el Corte de maderas pa sus propios aprovechamtos. y no podran hacer venta de ellos. Librese el Correspondte. despacho, tomese razon en el libro respectivo y dirijase este Espediente a la Exma Asamblea Departamental para su aprobacion. El Exmo Sor Gobor. asi lo mando decreto y firmo.

[5 S. D. K.]

[Rec. clx. D. T. 1855.]—8

Office of the Surveyor-General of the United States for California.

I, Samuel D. King, Surveyor-General of the United States, for the State of California, and as such, now having in my office and under my charge and custody, a portion of the archives of the former Spanish and Mexican Territory and Department of Upper California, do hereby certify that the six preceding and hereunto annexed pages of tracing paper, numbered from one to six inclusive, and each of which is verified by my initials (S. D. K.), exhibit true and accurate copies of certain documents now on file and forming part of the said archives in my office.

In testimony whereof I have hereunto signed my name officially and affixed my private seal (not having a seal of office), at the City of San Francisco, California, this 8th day of September, A. D. 1851.

SAMUEL D. KING,
Surveyor-General California.

Filed January 21, 1852.

J. B. CARR,
Secretary.

"D."

Translation of Title of Luis Peralta.

Monterey, August 14th, 1818.

The Reverend Fathers of the Missions of Santa Clara and San Jose, will report whether the place the petitioner asks, does not injure any of the missions, in order to determine whatever may be deemed convenient.

(Signed) SOLA.

Mission of Santa Clara, August 17th, 1818.

The Revd. Fathers, the Missionaries of said Mission, have to state that they have nothing to say in favor of or against the request, because the place solicited does not belong to said mission agreeably to the decision of the Superior Government, which was, that the River Guadalupe should be the dividing line between the Pueblo and the Mission.

FATHER JOSE VIADER.

Mission of San Jose, August 18th, 1818.

In the name of this Mission we state that this Mission is very far from being injured by the petitioner, and to this opinion they add, that the Superior Government can, if they think proper, grant the same. In witness whereof I sign these presents in the said Mission on the same day and month.

FATHER NARCISO DURAN.

Senor Governor.

Luis Peralta, Sargeant of the Company of the Royal Presidio of San Francisco and Commissioner of this Pueblo of San Jose de Gua-

dalupe, with due respect and submission before your Honor appears, and says: That at a distance of a little over two leagues from said Pueblo River downwards, there is a place on the margin of said river, called Portadas la Rancheria del Chino, and from that place to the Creek, called Coyote, there is about a league forming between said creek and river, a kind of jerk (rincon) reaching as far as opposite the inlets, of the length of about a league and a half, which place and lands he asks your Honor to grant him, that he may place there his stock, by which he will avoid the great loss he daily experiences, much to the injury and detriment of his numerous family.

Wherefore he aks of the merciful goodness of your Honor to be pleased to grant him the favor he solicits, if it should meet your Honor's approval, which he will receive with many thanks.

The Lord preserve your Honor many years.

Kissing your hands, I am your humble servant,

LUIS PERALTA.

Pueblo of San Jose, July 23d, 1818.

Don Pablo Vicente de Sola, Lieutenant-Colonel of the Royal Armies, Political and Military Governor of the Californias, and Inspector of its troops.

By virtue of the preceding petition of Luis Peralta, Commissioner of the Pueblo of San Jose, and from the reports made by the Reverend the Missionaries of Santa Clara and San Jose, in relation to the land he claims to put his stock on, I conferred the same to him, agreeably to the terms of the document, which was delivered to him as evidence of the same.

Monterey, September 7th, 1818.

(For map, see original, between pages 66 and 67.)

Don Pablo Vicente de Sola, Lieut.-Col. of the Royal Armies, Political and Military Governor of New California, and Inspector of the troops, &c.

Sergeant Luis Peralta, Commissioner of the Pueblo of San Jose de Guadelupe, having presented to this government a memorial soliciting the place called "La Rancheria del Chino," at about two leagues in descending the river from said Pueblo, and within its boundaries, to establish a rancho and place his stock therein; I have thought proper to concede it in the name of H. M., whom God keep, in consideration of his long services in his military career, and also that his numerous family of children may be relieved, and with the express condition that if at any time the community of said Pueblo should need it, it shall belong to them, he to have another place selected, that he may not suffer any damage to his interests; and a copy of this shall be entered in the Archives now at that repeated Pueblo such as exists in the original in those of the province; and having asked information

of the Reverend Fathers, the ministers of the holy Missions of Santa Clara and San Jose, who have stated that the same does not belong to them, nor that it can injure them, I have thought proper to grant it to him and his heirs; he to put a house and other buildings he may need, and the stock he may possess, provided that this possession shall not injure at any time the property of the neighbors of said Pueblo, in which case he shall add them to theirs, or he shall petition for some other place free from these objections.

M.

Monterey, September 7th, 1818.

Senor Governor.

Luis Peralta, Sergeant of the Royal Presidio of San Francisco, and by the Superior Government appointed Commissioner of the Pueblo of San Jose of Guadalupe, with all due respect and submission, appears before your Honor and says, that at the distance of eight leagues from the Mission of San Jose, in a northerly or northwesterly course along the coast, there is a creek named by the Reverend Fathers of the aforesaid Mission San Leandro, and from this to a white little hill adjoining the sea-beach in the same direction, and along the coast there may be four or five leagues, more or less, about which place and land he asks and solicits may be granted him, that he may establish a rancho, and place therein all his goods and chattels, in order to avoid by this means the great loss and damages which he experiences thereof, much to the injury and detriment of his numerous family.

Wherefore he asks and solicits of the benign goodness of your Honor to grant him the favor he petitions for, if it be your Honor's pleasure, which will be received with many thanks.

The Lord have you in his holy keeping many years.

Kissing your hands,

LUIS PERALTA.

Pueblo of San Jose, June 20th, 1820.

Mission of La Soledad, August 3d, 1820.

Captain Luis Antonio de Arguello, Commandant of the Presidio of San Francisco, will appoint an officer or a sergeant, on whom he may rely, to place Sergeant Luis Peralta, Commissioner of the Pueblo of San Jose, in possession of the lands petitioned for, giving previous notice of it to the Reverend Fathers, the Missionaries of the Mission, bordering on said land, and there place landmarks on the four points of the compass, that it may be known at all times the extent of said lands which have been granted to him, all of which being accomplished, you will return to me the originals, that they may be recorded in the Archives and give it the proper certificate. Thus did provide and command Senor Col. Don Pablo Vicente de

Sola, Political and Military Governor of this New California, and signed by

SOLA.

San Francisco, August 10th, 1820.

Lieutenant Don Ignacio Martinez, of my company, will proceed to execute the orders of the foregoing superior decree.

ARGUELLO.

San Jose, August 16th, 1820.

In behalf of his Mission I say, that there is no objection to grant to the petitioner the place he asks, but the creek of San Leandro where the launches are harbored in summer, must at all times be at the disposal of the Mission, and the cutting of wood comprehended in the place asked for must remain in common as it was resolved by the laws of the Indies. In evidence for all times, I inscribe it in continuation of these documents on the said day, month, and year.

Signed by

FATHER NARCISO DURAN,
Minister of said Mission.

Return of a writ to give possession to Sergeant Luis Peralta, of the place called San Antonio.

In the place or deep creek of San Leandro, on the sixteenth day of August, one thousand eight hundred and twenty, by virtue of the preceding superior decree of Senor Governor of this Province of Alta California, Col. Don Pablo Vicente de Sola, commanding that Sergeant Luis Peralta be put in possession of the land that he solicits with the previous notice, and by agreement with the Rev. Father Narciso Duran, Minister of the Mission of San Jose, I proceeded to said place, and in presence of the two witnesses, Nicolas Berreyesa and Juan Miranda, the boundaries which separate his land were marked to him, to wit: The deep creek called San Leandro, and at a distance from this (say about five leagues) there are two small mountains (serritos); the first is close to the beach; next to it follows that of San Antonio serving as boundaries, the rivulet which issues from the mountain range and runs along the foot of said small mountain of San Antonio dividing or separating the land; and at the entrance of the little gulch there is a rock elevating itself in the form of a monument, and looking towards the north. On both boundaries were filed four landmarks; and inasmuch as this individual does not prejudice any of the adjoining neighbors, and by virtue of the authority on me confined, and in the name of our Catholic Monarch, Senor Don Ferdinand the 7th (whom God preserve), I put in possession of said land the above-mentioned Luis Peralta.

And that it may be made evident for all times sufficient, and in due form of law, to prevent any difficulty hereafter, I signed it, to-

gether with the two assisting witnesses, on the said day, month, and year.

IGNACIO MARTINEZ.

Assisting witness,
NICOLAS BERREYESA.
Assisting witness,
JUAN MIRANDA.

Mission of San Carlos, August 30th, 1820.

In view of the just reclamation made by the Rev. Father Juan Cabot, as Minister of the Mission of San Francisco, evidenced in the letter annexed to these proceedings, where he manifests that Lieut. Don Ignacio Martinez did not fulfil my decree of the 30th of August, and that through this fault possession has been given of some lands pertaining to said mission; let these be withdrawn from those which were assigned to Sergeant Luis Peralta, and let them be as they were before, in favor of the neophytes of said mission of San Francisco; and this being done in presence, and with the knowledge of its missionary fathers, this despatch shall be returned to me for its conclusion.

SOLA.

Mission of our Father, San Francisco, Sept. 14th, 1820.

Inasmuch as this mission has had possession since the month of November, in the year last past, granted by the superior government for agricultural purposes and the feeding of sheep, as far as a rivulet at the distance from the house of the rancho some three and a half to four leagues in the direction of San Jose; there is no objection to set the boundaries of Sergeant Luis Peralta from that place up to the creek called San Leandro; and that it may be evident for all times, we the ministers of said missions sign these presents in the said day, month, and year.

FATHER JUAN CABOT,
FATHER BLAS ORDIZ.

Return of the writ to mark out new boundaries to the place of Sergeant Luis Peralta.

In the same place and deep creek of San Leandro, this sixteenth day of the month of September, one thousand eight hundred and twenty, by virtue of the second preceding decree of the Senor Governor of this province of Alta California, Col. Don Pablo Vicente de Sola commands, that the lands which had been assigned to Sergeant Luis Peralta be withdrawn, pointing to him anew the boundaries, at about one league and a half from the hill of San Antonio towards that part of San Leandro, serving as the dividing line a rivulet issuing from the mountain or hill range which runs down to the beach, where there is a little forest of willows (willow grove), fixing

in the said place the four landmarks, which shall be valid, and not those which were assignated before on the little mountain of San Antonio; in evidence of which I sign it with the assisting witnesses.

IGNACIO MARTINEZ.

Assisting witness,
JUAN MIRANDA.

Assisting witness,
NICOLAS BERREYESA.

Monterey, Oct. 18th, 1822.

This day was issued, in favor of Sergeant Luis Peralta, by the Governor of this Province, the certifying document for the land which has been granted him, as appears in this folio, by the writ of possession, which the Lieutenant of this Company, Don Ignacio Martinez, gave him, agreeably to an order issued him by government, and this document shall remain filed in the archives of said government.

SOLA.

Senor Captain.

My Dear Sir:—Having proceeded, in company with my Lieutenant, Senor Don Ignacio Martinez, to the place or land which I petitioned for in October, in the year last past, through you to the Senor Governor, agreeably to superior decree of his honor, dated at the Mission of La Soledad, the 9th August of the present year, I was put in possession of said land in the name of our Monarch (whom God preserve), said gentleman binding me to place suitable monuments, as evidence for all times. By reason of this procedure, the Rev. Father Juan Cabot, Minister of the Mission of San Francisco, represents to his honor the Governor that my lieutenant gave me possession of the land up to one league and a half, or less than two from the house of the rancho of said Mission, and that I encroach on another place, where there is a corral for sheep, put there by the steward (major domo), two leagues at most distant, which we did not see, as my lieutenant can testify, in regard to which I can say we did not labor in malice.

Respecting the reclamation that his Reverence makes to the Governor, his honor directs that from the lands which were assigned to me, those of which the rancho of the Mission has already taken possession should be withdrawn, to which I am ready to obey. But I would firstly call to your attention, that when I petitioned for these lands they had no other owner than our Sovereign. Secondly, that if his Reverence asked for the same, it was after I had done so, as it is manifest that in his case it was conceded at once, but to me after making three memorials, as you are aware, and if I am entitled to this favor, they ought to have considered me from that time before his Reverence. Now, the steward established a rancho for sheep on land not belonging to the Mission; but as he got the stock on the

land before petitioning for it, he settled the same where he pleased, which I could not do, notwithstanding I foresaw it as I told you.

The reverend father says to the honorable Governor that I do not need the land, and that I occupy a great extent; but I would represent that five leagues does not seem to me much, in a narrow tract, as you know it is from the beach to the mountain range, and that not all of it is good, as my lieutenant is aware, for great portion contains, hills, creeks, and ravines, not fit for the purpose. Such is my need, that for want of it, I have lost a great deal of cattle. I do not say that the Mission will not be wanting a piece of land, which his Reverence solicits may be taken away from me, the same being the best that has been assigned to me. But though the Mission might want it, this would not cause them to lose their stock, when I enumerate four ranchos with this, with sufficient lands for their stock, as any practical man can say, who may reconnoitre them, being disinterested, and as through this Mission Rancho I am deprived of the best land which the goodness of the honorable Governor had designed to confer on me, in the name of his Majesty (whom God keep), I am compelled to conform that I may obey. My lieutenant having told me that you had informed him that if I did not conform, other measures would be taken, I acceded in order to obey. Although I consider I have the right to said land, as I asked it before his Reverence; but as it is not so much the want the Mission feels of the land his Reverence solicits may be taken from me, it seems it is only to contract me, whence emanate repeated complaints, with which they will molest their superiors, and the weaker part will ever be the sufferers.

Wherefore, if you consider that my limited merits do not entitle me to what, in the name of my Sovereign, has been assigned me, let there be at least no more complaints. Not taking the hills I mention in consideration, it is natural that I should seek for my stock length of plain to pasture, to compensate for their narrowness. All which I submit to you, to the end that if you think proper you may present it to his honor the Governor, that he may dispose of it agreeably to his superior pleasure.

God preserve you many years.

Kissing your hands,

I am your humble servt.,

LUIS PERALTA.

Pueblo of San José, October 14th, 1830.

Senor Governor:

The party applying in their representation has appeared before me, by means of two memorials, which I transmitted to your hands, and although upon the first there was no action had, no doubt because of the many occupations which daily surround your Honor, yet having decreed to the second one that the representation should be made by

the party directly to your Honor, as it was just and lawful, it had the desirable effect that the interested party desired, as is shown by the decree issued by your Honor, dated La Soledad, August 3d, the year last past, by virtue of which everything was accomplished, as shown by the writ of return of the lieutenant of my company, Don Ignacio Martinez, by which he gave him formal possession in the name of his Majesty, the documents of which I transmitted to your Honor's hands after the interested party was put in possession; but as there are not wanting importunate oppositions, and your Honor was beset by them, you disapproved of what had been done; but as the interested party did not conform, according what he manifested to me, I answered that in the other representations I had informed your Honor that the place did not injuriously interfere with any other possession as it was really so. Senor Governor for the Mission of San Francisco did not even then think of said land of San Pablo until some months afterwards, and I did not wish to allege anything upon what might be presented to your Honor directly; nevertheless, he transmitted the enclosed memorial, which I did not wish to present to your Honor because I had no connection with the service; but now, moved with compassion, in consideration of a numerous family, of his advanced age, his meritorious services, I feel compelled to express to your Honor the sentiments in favor of this individual, that you may render him the justice you may deem due him in view of the same.

This party, Senor Governor, even leaving out of the question his being a military man, of about forty years' service, has rendered many services to the Missions of San Francisco, Santa Clara, San Jose, and Santa Cruz, a great part of their conquest being due to him; his health has almost been sacrificed in repeated excursions to collect his missing herds, and now it is a great pity that for a span of land they of San Francisco should have established suit against him, it being clear truth what he asserts in this memorial, that the said mission of San Francisco turns it all into ranchos, in every direction almost, and that even now they have appropriated from good places, subjecting thereby everybody to miserably narrow limits. Your honor may, above all, provide what may be of your superior pleasure.

(Signed) LUIS ANTONIO ARGUELLO.

San Francisco, June 23d, 1821.

A description showing me the extent of the lands granted me, and of which I was placed in possession since the year '20, to wit:

Along the coast of the mission of San Jose, in a northwesterly course, there is a deep creek, called San Leandro, forming the dividing boundary of said mission of San Jose, thence to a small, round mountain called San Antonio, the dividing boundary with my neighbor, Francisco Castro, which space is a little over four leagues

long; and as it is the narrowest portion of the coast, it almost contains a half a league in breadth, from the mountains to the sea. In the said tract there are, in one place, two rivulets issuing from the ridge, which, in the rainy season, run and empty themselves into the sea; during the other part of the year they remain dry; for, owing to the scarcity, the water remains up amidst the mountain range. In another place there are also two rivulets of the same nature; one of them waters a small willow grove adjoining the inlets, and the borders of which are the sowing-fields, depending upon the season for water (siembras de temporal); for, owing to the scarcity of water, they cannot be irrigated.

There is also along the sea-shore a forest of oaks, so bad and without water that the cattle do not relish, even to this day, their watering-place, being among certain small willow trees and oaks, on the margin of the rivulets and oaks on the hillsides; and because my stock suffered from the fact of their being scattered, much to the great detriment of my numerous family, I asked, and they granted me the said land; and, notwithstanding its narrowness, scarcity of water, its hills and various branches, currents of various inlets, not good to the purpose, I keep there in peace 1300 head of cattle, 2 droves of mares, and one drove of asses; which description I transmit to the superior hands of the Senor Commandant General, in compliance with the superior order of the 7th of October, of the present year.

LUIS PERALTA.

Rancho of San Antonio, December 19th, 1837.

I certify the foregoing to be a true and correct translation, as revised and corrected by me from an authenticated copy of the original Spanish document, on file in the office of the Surveyor-General for California, which authenticated copy is on file in this office, marked Exhibit B, in case No. 4—Vicente Peralta et al. San Antonio, filed January 21st, 1852, United States Land Commission for California.

GEO. FISHER,
Secretary.

San Francisco, July 15th, 1852.

Espediente.

Proceedings at the instance of Don Ignacio Peralta, soliciting the place called San Antonio.

1844.

(No. 345.)

Monterey, Feb'y 12, 1844.

Let the Secretary of State of this Government report on the same.

(Signed) MICHELTORENA.

To his Excellency, the Governor :—

Ignacio Peralta, of the Pueblo of San Jose, with the greatest respect before your Excellency, presents himself and says, that the Rancho called San Antonio, lying between the Mission of San Jose and San Pablo Point, was granted to my father at the time when this Department was governed by Senor Don Pablo Vicente de Sola, and that after that, Lieutenant Don Ignacio Martinez, by superior order gave him possession, any other authority being at that time unknown.

By the annexed document your Excellency will perceive that the document which secured the property and its possession to the petitioner were mislaid. For this reason I request that your Excellency will condescend to order the issue of a new title in favor of my father, Don Luis Peralta, to the extent expressed by the document of Senor Sola, of plot of survey (design) that accompanies it, including the range of this up to its summit or comb, and thence to the sea.

I therefore solicit, that using your goodness, your Excellency will be pleased grant me what I ask, and make oaths, &c.

Excellent Sir,

IGNACIO PERALTA.

Monterey, Feb'y 11, 1844.

Senor Governor.

By the documents which Don Ignacio Peralta exhibits, he accredits that to his father was granted a tract of land called San Antonio, agreeably to the extent shown by the design, which he presents, and as it is 22 years since the Government of that period made the grant and ordered possession to be given, the interested parties having occupied said land since the year 1819, I believe that there is no objection whatever in granting him a new title, but in fixing the boundaries to the tops of the mountains, it will be convenient that it be under the condition not to prevent the neighbors on the Contra Costa from cutting the wood which they might need for their own use, but not to sell the same.

The superior discernment of your Excellency will be, dispose what may be convenient.

MAN'L JIMENO.

Monterey, Feb'y 13th, 1844.

Monterey, Feb'y 13th, 1844.

Let the title be issued under the conditions expressed by the Senor Secretary, those of the law, and the citation of the neighbors before the possession, in order to avoid subsequent reclamations.

(Signed) MICHELTORENA.

Monterey, Feb'y 13th, 1844.

In view of the petition first annexed to this proceedings, the documents which accredit the ancient possession by Don Luis Peralta, of

the tract of land called San Antonio, with all that was represented and suitable to be seen, in conformity with the laws and regulations relative to the subject, I declare the said Don Luis Peralta owner in fee of said land, which is bounded as follows, viz.:

"On the southeast by the Creek of San Leandro, on the northwest by the Creek of los Serritos de San Antonio (the small hills of San Antonio), on the southwest by the sea, and on the northeast by the tops of the hills range, without prohibiting the inhabitants of the Contra Costa from cutting wood for their own use, they not to sell the same."

Let the proper warrant be issued, enter the same in the respective book, and let this espediente be transmitted to the excellent Departamental Assembly for their approval.

His Excellency, the Governor, thus ordered, decreed, and signed.

The above translations are correct.

CARR.

I certify the foregoing to be a true and correct translation, as received and corrected by me from an authenticated copy of the original Spanish document on file in the office of the Surveyor-General of the U. S. for California, Case No. 4, Vicente Peralta et al., San Antonio, marked Exhibit "C," filed January 21st, 1852, U. S. Land Commission.

(Signed) GEO. FISHER,
Secretary.

San Francisco, July 15th, 1852.

Filed in office, January 21, 1852.

(Signed) J. D. CARR,
Secretary.

A.

No. 2. Document annexed to the Deposition of Salvio Pacheco.

Monterey, 30 de Junio de 1853.

Debuelvasele a esta parte el terreno que por disposicion de mi antecesor el Sor. Coronel D. Pablo Vicente de Sola se le quito despues de concedido y daso le la posesion de dho terreno; y esta parte se presentara con este Decreto al Juez comisionado entonces para la dha posesion para que lo verifique y todo, conelindo lo agregaro al expediente que entonces se formo.

ARGUELLO.

Sor. Gov.

Muy Sor. mio, Luis Peralta, Sargto. de la Compa. del Presidio de Sn. Franco. con el debido respeto y subordinacion qe. debe parece ante V. S. y dice qe. con fha de Octubre del ano 19 por el conducto de mi Capitn. solicite ante el Sor. Govor. de la Piova. el Sor.

Coronel D. Pablo Vicente de sola el terreno qe. hay desde el arroyo de Sn. Leandro a un serrito redondo qe. esta junta a la playa rumbo al norte por la Costa para poner en el mis bienes de Campo, cuyo terreno aun que parese mucho no lo es por dos circumstancias; la primera es qe. como esta en la Costa es demosiado Costo el tramo que hay de la playa a la Cierra; la segunda es que en el terreno que hay de dho San Leandro a dho Serrito redonda hay una gron parte qe. ocupa una lomeria con barrancas y puntas de esteros que no son buenos para el efecto; por cuyo motivo me estendi a solicitor hosta el repetido Serrito; y como dho terreno no tenia en aguel tiempo otro dueno que nuestro Soberono, el Sor. Govor. me lo concedio, ordenando a mi Capiton nombre. a un ofisial o sergento para que me dose la posesion de dho terreno, con previo aviso de Citacion que deberia hacer para ello a los Rs. Ps. Mtros. de la Contigua mision a dho terreno lo qe. verifico al pie de la letra mi teniente el Sor. D. Ygnacio Martinez quien me dio la posesion de dho terreno a nombre de nuestro Soberano Qe Do. Gue. Con las correspondientes formalidades: Por Novembre del minno ano el R. P. F. Juan Cabot mtro de la mision de Sn. Franco. pidio a el Sor. Gobr. el paraje Sn. Pablo qe. dista de mis linderos como legua y media o dos escasas, rumbo mas al norte para poner en el Siembras y borregos; poro dicho R. P. antes de pedirlo y de que se le concediese el dho paraje mando llebor a el, el ganado menor y lo pusieron en el terreno qe. ya por razon de derecho me correspondia a mi; y subedor dho R. P. a donde lleyaba mi lindero, represento a el Sor. Govor. qe. yo me habia metido en sus terrenos, lo qe. susedio al Contrario, y mi embargo el Sor. Gov. dispue en dureto de 30 de Agosto de 1820 se me quitase el terreno qe. el R. P. decia ser de la mision, y con este motivo se me quito lo mejor del terreno qe. se me habia asignado; y aun que conosi la grande estreches en que quedeban mis bienes, el derecho que yo tenia a el dho terreno por haberlo pedido primero y la grande falta que me habia de hacer, onisti decirle a el Sor. Govor. Cosa alguna, por que conou qe. en aquel tiempo era infrutoso; el R. P. expone a el Sor. Govor. qe. el terreno no me hace falta; a lo que digo qe. menos falta le hace a la mision una costeda de terreno como la qe. me ha quitado cuanto le cuento cuatro Ranchos con Sn. Pablo; y es tanta la falta qe. me hace (atendidas los circumstancias qe. llevo exp. estos) que mis bienes hace quedado demosiado estrechos, por lo que pido y suplico a la pieda benigna de V. S. se digne disponer se me de buelba el dho terreno para que mis bienes puedan tener mas estencion y postos y de este mado evi tar se subon a la Sierra y de aqui su estrabio.

Por tanto pido y suplico a la pieda benigna de V. S. se digne proveer como llevo pedido si fuere del superior agrado de V. S. de lo que recibire bastante gracia.

Ntro Sor. Gue a V. S. Ms As Pueblo de San Jose, 15 de Mayo, de 1823. B. L. M. de V. S., su menor subdito.

LUIS PERALTA.

En cumplimiento del superior decreto que antecede del Sor. Gefe, Superior de la Prova. Capn D. Luis Antonio Arguello, se le ha debuelto el sitio que pr. orn del Sor. Coronel D. Pablo Vicente de Sola, se le havia quitado al Sargto. Luis Peralta, poniendole muvamente en entera posesion del sitio del serrito de San Antonio, arrollito que cruza hta la Costa donde linda un penascon que mira hacia la parte del norte quedando en lejitima posesion el Citado Peralta a presencia de los mis mos testigos que lo fueron en la primera posesion que tomo.

Y para que Consta pr diligencia lo firmaron en dho sitio y lugar a cuatro dias de Diciembre, de mil ocho cientos veinte y cuatro.

IGNACIO MARTINEZ,
NICOLAS BERREYESA.

JUAN MIRANDA,
J. W.—Depo. Berreyesa.

Filed in office March 18, 1852.

GEORGE FISHER,
Secretary.

Translation of Exhibit A, annexed to Deposition of Salvio Pacheco.

To his Honor the Governor.

No. 2.

Monterey, June 30, 1823.

Let the land which, by order of my predecessor, Colonel Don Pablo Vicente de Sola, was taken from this claimant after having been granted him, and given him possession thereof, be returned to him.

He shall apply with this decree to the July Judge, then commissioned for the said possession, that he may comply with it; when this be done, he shall annex all the proceedings to the espediente already formed.

ARGUELLO.

I, Luis Peralta, a sergeant of the Company of the Presidio of San Francisco, with due respect and subordination, appear before your Excellency and say.

That on the 19th October, 1819, I petitioned, through my captain, of his Honor the Governor of the Province, Colonel Don Pablo Vicente de Sola, for the land situated from the Arroyo San Leandro to a round hill (cerrito redondo) lying near the beach, on a northern direction towards the coast, in order to put there my cattle (bienes de campo); which tract of land, though it appears to be large, is not so, for two reasons: 1st. Because it is situated on the coast, and the space between the beach and the top of the mountains (La Sierra) is too narrow; 2d, because in the space lying from San Leandro to the said cerrito redondo, there is a great part of it forming highlands, ravines, and inlets, which are not suitable to the purpose; for which reasons I petitioned to the aforesaid cerrito, and inasmuch as said land had then no owner than our sovereign, his Honor the

Governor, granted it to me, directing my captain to appoint an officer or sergeant to give me the possession thereof, and to summon previously to appear the reverend Ministers of the adjacent missions to said land, and said order was literally complied with by my lieutenant, Senor Don Ignacio Martinez, who gave me the possession of said land, in the name of our sovereign (whom God preserve), with the corresponding formalities. In the month of November, of the same year, the reverend Fathers Friar Juan Cabot, Minister of the Mission of San Francisco, petitioned his Honor the Governor for the tract of land called San Pablo, distant from my boundaries about one league and a half or two short leagues, farther to the north, in order to cultivate it, and put sheep thereon; and said reverend Father, before petitioning for the land, and before the same was granted to him, directed his sheep (ganado mayor) to be sent there, and they were placed on the land, which already belonged to me by right. Said reverend Father being informed of the extent of my property, represented to the Governor that I had interfered in his lands, which was on the contrary; nevertheless the Governor ordered, in decree of the 30th of August, 1820, that the land which the reverend Father said belonged to the Mission, should be taken away from me, and, by so doing, I was deprived of the best land which had been granted to me. Although I knew of the narrowness to which my cattle was confined, of my right to the land on account of my having petitioned for it firstly, and of the want I was in for it, I omitted to represent the same to his Honor the Governor, because I knew that it was of no avail at the time. The reverend Father states, to his Honor the Governor, that I do not want the land; to which I reply, that the Mission wants much less the short tract of land which she has taken from me, when the Mission owns four ranchos, with that of San Pablo,—such is my want of it (in view of the circumstances explained) that my stock has been confined in too narrow a space.

Wherefore I beseech your Honor's kind piety may be pleased to direct the said land to be returned to me, that my stock may have a larger extent and pasture to feed on, and thus avoid their straying up the Sierra.

Therefore I beseech the benign goodness of your Honor to vouchsafe, provide, as I have said, it should meet your superior pleasure, in which I shall receive sufficient favor.

The Lord preserve your Honor many years.

Your humblest subject kissing your hands,

LUIS PERALTA.

San Jose, May 15, 1823.

In compliance with the foregoing superior decree of the superior Chief of this Province, Captain Don Luis Antonio Arguello, the land which, by order of Colonel Don Pablo Vicente de Sola, had been

taken from Sergeant Luis Peralta, has hereby been returned to him, and he has newly been put in possession of the place called Cerrito de San Antonio, and the arroyito (rivulet) which crosses the place, to the coast where is a rock looking to the north; said Peralta has received lawful possession of, in presence of the same witnesses who assisted when the first possession was given to him.

In witness whereof they signed it, on said location and place, on the 4th of December, 1824.

YGNACIO MARTINEZ.

JUAN MIRANDA,
NICOLAS BERREYESA.

Office of the Board of Commissioners of California Land Claims.

I certify the foregoing to be a true and correct translation from the Spanish original, filed in this office.

(Signed) GEO. FISHER,
Secretary.

San Francisco, the 10th of May, 1852.

Filed in office May 31, 1852.

(Signed) GEO. FISHER,
Secretary.

"F."

Conveyance to Irving et al.

State of California, County of San Francisco.

Know all men by these presents, that I, B. de la Barra, of the County of Contra Costa, State of California, for and in consideration of the sum of two thousand five hundred dollars to me in hand paid by Joseph H. Irving, James M. Goggin, and Wm. Claude Jones, the receipt whereof is hereby acknowledged, have bargained and sold, aliened and confirmed unto the said Joseph K. Irving, James M. Goggin, and Wm. Claude Jones, all my right, title, and interest in and to the "Encinal," purchased by John Clark and others of Vicente Peralta, situate in the County of Contra Costa, being one-twelfth part thereof, to have and to hold the same to them and to their heirs forever, free from the claim or claims of all and every person whomsoever.

B. DE LA BARRA. [L. S.]

Signed, sealed, and delivered this 19th day of April, 1852. Witness.

State of California, City and County of San Francisco, *ss.*

On this 24th day of April, A. D. 1852, personally appeared before me, Humphrey Marshall, Clerk of the Superior Court of the City of San Francisco, B. de la Barra, known to me to be the per-

son described in, and who executed the foregoing instrument, who acknowledged to me that he executed the same freely and voluntarily, and for the uses and purposes therein mentioned.

[L. S.] In testimony whereof, I have hereunto affixed my signature, and the seal of said Court, on this the day and year above written.

H. MARSHALL.

I, Thomas A. Brown, County Recorder of, in and for the County of Contra Costa, do certify, that the foregoing is a correct copy of an instrument filed for record at 11 o'clock A.M., on the 26th day of April, 1852, and recorded 28th of same month. Volume two, page 17, as appears from the record at this office.

Witness my hand, with my private seal affixed, there being no seal provided for the office, this 21st of June, 1852.

[SEAL.] THOMAS A. BROWN,
County Recorder.

Filed in office, July 6th, 1852.

(Signed) GEO. FISHER,
Secretary.

Conveyance to Clar.

G.

Contrata de compra y venta que celebran los Sres Don Vicente Peralta y Mr. John Clar bajo las condiciones siguientes.

1a. Dn. Vicente Peralta vende a Mr. John Clar la parte de mi rancho llamado Ensina comprendido desde la punta de la primera laguna que esta cerca de la Casa de Valdes linea recta a la orilla y punta primera del Canal donde estan los Alemanes actualmente esto es todo el terreno desde esta linea al Sur y donde quedan plantados hay mismo dos estucas.

2a. El precio de dicho ensinal es diez mil pesos libres del todo gasto pa. Peralta y pagaderos tres mil al Contado los mismos que hoi he recibido y el resto el dia trece de Enero del ano entrante 1852 quedando hipotecado dicho terreno en garantia de los Siete mil pesos restantes.

3a. Mr. Clar se obliga de perseguir segun las leges de los Estados Unidos a los squaters que hac en el rancho de Peralta con el objeto de espulsarlos y hacerlos dejar las posesiones que tienen en dicho rancho y si los squaters volvieren despues de haberles espulsados, Mr. Clar se obliga a ejecutar los procedimientos que sera la sentencia que se obtenga de los tribunales respecto de dichos squaters.

4a. Mr. Clar se obliga de respectar las contratas de arriendo que D. Vicente Peralta tiene celebrado con Mrs. Harper y Cook.

5a. Mr. Clar se obliga de cumplir con todas las Condiciones espresadas sin atender asi los titulos de Peralta sean declarados buenos, o malos, por la Comision que nombre el Gobierno de los Estados

Unidos y a hacer de su parte Cuanto sea posible para la balidez de dichos titulos.

6a. La lenea que D. Vicente Peralta necesita para su uso particular podia tomarla de la parte del terreno que no sea vendida sin Costo ninguno.

Contra Costa, California, Octubre trece de mil ocho cientos cincuenta y uno.

BICENTE PERALTA,
JOHN CLAR.

Testigos presenciales,
MARIANO URITA,
EVARISTO E. GAVIN.

Sepase por esta escritura de venta que yo Vicente Peralta en consideracion de la Suma de (10,000) diez mil pesos que me han pagado en dinero contado y de mi satisfaccion segun la adjunta contrata con John Clar he negociado vendido y tras pasado al mencionado Clar una porcion de terreno llamado el "Encinal" descrito en dicha contrata habiendo declarado Clar que el tiene una cuarta parte, de la Cual una tercera parte pertenece a B. de la Barra una cuarta parte a J. K. Irving otra cuarta parte a los S. S. John C. Hays y John Caperton y la otra cuarta parte a Jacob Alexander Cost.

Ya en acuerdo con la declaracion de D. John Clar y pr. las consideraciones ante dichas pr. estas vende transfiere, traspasa y di a los citadas partes la porcion de terreno ya mencionada a saber John Clar una sesta parte, a B. de la Barra una duodicima parte, a J. K. Irving una cuarta parte, y la otra cuarta parte Jacob Alexander Cost para que dicho terreno to posion ellos y sus herederos sin que hay a reclamo pr. mi ni mis herederos de la citada Venta.

BICENTE PERALTA, [L. S.]
her
ENCARNACION ⋈ G. DE PERALTA, [L. S.]
mark.
JOHN CLAR. [L. S.]

Contra Costa, Marzo 18 de 1852.

Be it remembered, that on the 13th day of March, 1842, personally came before me, Justice of the Peace in and for the County of Contra Costa, State of California, one Vizente Peralta and Encarnacion Galindo de Peralta, his wife, and John Clar, and severally acknowledged the above instrument to be their free act and deed. The said Encarnacion Galindo de Peralta, being of full age, and by me duly examined, and apart from her said husband, and the contents of the said deed being fully made known to her, declared that she did voluntarily seal, execute, and deliver the same, without any coercion or compulsion of her husband.

GUSTAVIUS HARPER,
Justice of the Peace.

I, Thomas A. Brown, County Recorder of said County of Contra Costa, do certify that the foregoing is a correct copy of a record of an instrument filed in this office the 17th day of March, 1852, at ten minutes before eleven o'clock A.M., as the same remains of record in this office.

Witness my hand with private seal (having no official seal) the 21st June, 1852.

THOMAS A. BROWN,
County Recorder.

[SEAL.]

Filed in office, July 6th, 1852.

GEO. FISHER,
Sec.

G. Translation of Petition and Grant A.

Seal Third. Two Rials.

Maritime Custom House of Monterey,
Monterey, April 23d, 1841.

As the parties petition for in this representation, so the land of which they make mention is granted unto them, they remaining under obligation to present themselves anew, accompanied by a map of the land, so soon as the boundaries of the neighboring land owners shall be regulated.

(Signed) ALVARADO.

Provisionally authorized by the Maritime Custom House of the Port of Monterey, in the Department of the Californias, for the years 1840 and 1841.

(Signed) HIMENO,
(Signed) ANTONIO MARIA OSIO.

To his Excellency the Governor.

The citizen, Juan Jose and Victor Castro, natives of this department, and residents within the jurisdiction of Juan Jose de Alvarado, present ourselves before your excellency in the most proper and respectful manner, and represent that desirous of being finally settled upon land of our own for the purpose of devoting ourselves to the labors of agriculture and the raising of cattle, in order by these means to obtain the very necessary means of subsistence for our numerous increased families, which is of such vital importance, we beseech your excellency, that you will deign to grant unto us a piece of vacant land which is situate on the immediate limits (immediaciones) of San Antonio, San Pablo, Pinole, the farm (rancho) of Valenica and the farm of Moraza, which land is the overplus (sobrante) of the ranchos aforesaid.

Wherefore, we humbly pray your excellency to grant our petition, from which we hope to derive our welfare and the maintenance of

our said families, making oath that this is not done through malice, &c.

(Signed) JUAN JOSE CASTRO,
(Signed) VICTOR CASTRO.

Monterey, April 23d, 1841.

Filed in office July 16th, 1852.
(Signed) GEORGE FISHER,
Secretary.

"H."

Conveyance to Chipman et al.

This indenture, made the twenty-second day of October, Anno Domini one thousand eight hundred and fifty-one (1851), between Antonio Maria Peralta of the County of Contra Costa (Alta California), party of the first part, and William W. Chipman and Gideon Aughenbaugh, of the same place, parties of the second part, witnesseth:

That the said Antonio Maria Peralta, party of the first part, in consideration of the sum of fourteen thousand dollars ($14,000), to wit, seven thousand dollars to him in hand paid, in good lawful American money, by the said parties of the same part, and the balance of seven thousand dollars ($7000) to be paid according to a certain mortgage of even date upon the same, known by the name of "Encinal," twelve months after date next ensuing, hath granted, bargained, sold, released, and confirmed, and by these presents doth grant, bargain, sell, release, and confirm unto the said William W. Chipman and Gideon Aughenbaugh, parties of the second part, and to their heirs, executors, or assigns forever, all that tract or parcel of land situated in the townships of San Antonio, and in the County of Contra Costa, and known by the name of Bolsa, or Peninsula del "Encinal," being part of the Rancho de San Antonio, and property of said A. M. Peralta, granted by petition to his father, D. Luis Peralta, on the 20th of June, 1820, by D. Pablo Ve. de Sola, Governor of the Alta California, and confirmed by M. Micheltorena, Governor of the same, on the 13th of February, 1844, and recorded in the office of Surveyor-General of the United States for California.

Said Encinal is almost all surrounded by the sea water, having a single entrance or mouth on the northeast side. Said mouth or entrance is to be fenced and gated by said parties of the second part, immediately after they take possession, from the point or end of the San Leandro Slough, or Estero de San Leandro, to the point or end of San Antonio Slough, or Estero de San Antonio, a distance, from point to point, of about one thousand yards, more or less; and said line—for the fence run about three hundred yards from the brick-yard-house—with the purpose of preventing the entrance of the

cattle of said A. M. Peralta, and of his heirs, executors, and assigns, and for doing so, said Wm. W. Chipman and Gedion Aughenbaugh, their heirs or assigns, are bound to pay all damages unto said A. M. Peralta, his heirs, executors, or assigns, together with all and singular the hereditaments and appurtenances whatsoever, to the same belonging or appertaining, and the reversion and reversions, remainder or remainders, rents, issues, or profits thereof, and every part and parcel thereof, and also all the estate, right, title, interest, trust, property, claim, and demand whatsoever, at law and in equity, of the said Antonio Maria Peralta, his heirs or assigns, in, to, or out of said lands, tenements, and hereditaments and premises.

To have and to hold the said lands of the Encinal, as above described, tenements and hereditaments, all and singular said premises, with their appurtenances, unto the said Wm. W. Chipman or Gedion Aughenbaugh, parties of the second part, their heirs or assigns, and to his and their only proper use and behoof. And the said Antonio Maria Peralta doth hereby, for himself, his heirs, executors, and administrators, covenant, promise, and agree to and with the said parties of the second part, their heirs, executors, or assigns, in manner and form following, that is to say: that William W. Chipman and Gedion Aughinbough, parties of the second part, their heirs and assigns, shall and may peaceably and quietly have, hold, and occupy the said land of Encinal, tenements, hereditaments, and premises, and every part thereof, without the let or trouble, eviction or disturbance of the said party of the first part, his heirs, electors, or assigns, or of or by any other person or persons lawfully claiming or to claim from, by, or under trust from him or them or any of them. And that those said lands, tenements, hereditaments, and premises, and every part thereof, now are, and from henceforth shall continue, remain, and be unto the said parties of the second part, their heirs or assigns, free and clear, and freely and clearly enquieted. Ever erated and discharged of, from, and against all former gifts, grants, bargains, sales, mortgages, and encumbrances whatsoever, had, made, done, commenced, exercised, or suffered by the said Antonio Maria Peralta, or by any person lawfully claiming or to claim by, from, or under him, or by his, their, or any of their acts, means, assents, or procurements hereafter. The said Wm. W. Chipman and Gedion Aughenbough, parties of the second part, agree to receive the lease of Messrs. Joseph Maria Payat, and Joseph Depainer, by transfer, from the lessor A. M. Peralta, to the purchaser of said Encinal.

And further agree between the parties, that in case the Commissioners find any fault whatsoever in the original to this, and of course would not be approved and declared null and void, said Antonio Maria Peralta, his heirs or assigns, are not obliged to give back the money or moneys received for the said land of Encinal, not being responsible for any damage or damages that said parties of the

second part would receive or suffer from the squatters or the decision of said Commissioners, alter in any manner the mortgage abovementioned, or the claim of said A. M. Peralta, his heirs or assigns, for the full payment of the fourteen thousand dollars against the said party of the second part.

In witness whereof the said party of the first part has hereunto set his hand and seal the day and year above written.

ANTO. MA. PERALTA. [SEAL.]

Attest:
J. CASSAFFORTH,
JAS. F. HIBBERD.

State of California, Contra Costa County, San Antonio Township.

Before me, Gustavius Harper, a Justice of the Peace in and for said township, personally appeared Antonio Maria Peralta, the maker of the within deed of conveyance, personally known to me to be the person whose signature is thereto affixed, and acknowledged the same to be his free act and deed for the purposes therein expressed.

In testimony whereof, I have hereunto set my hand and seal, this twenty-third day of October, A.D. eighteen hundred and fifty one.

GUSTAVUS HARPER, [SEAL.]

State of California, Contra Costa County.

The foregoing instrument filed for record in this office on the 25th day of October, 1851, at 8 of the clock A.M., recorded the same day. Filed by William W. Chipman.

THOMAS A. BROWN,
County Recorder.

State of California, County of Contra Costa.

Before me, F. M. Main Castro, County Judge of the county aforesaid, personally appeared James F. Hibberd, know to me to be the person whose name is subscribed to the foregoing deed of conveyance as a witness thereto, and makes oath that Antonio M. Peralta, whose name is affixed to said conveyance, and who is described therein as the grantor thereof, did affix his name to and execute said conveyance, in the presence of said James F. Hibberd, and subscribed his name thereto as a witness thereof, and that said grantor Antonio M. Peralta is personally known to said subscribing witness as the person who signed and executed said conveyance.

Sworn before me this 11th day of November, A.D. 1851.

In testimony whereof, I have caused the seal of said County Court to be affixed, as witness my signature.

F. M. MAIN CASTRO, [SEAL.]
County Judge.

State of California, County of Contra Costa.

This instrument of proof filed for record in the office of the County Recorder of Contra Costa County on the 11th day of November, 1851, at 11½ o'clock A.M.

Recorded at same hour in Volume 1 of Land Titles, page 418. Filed by William W. Chipman.

THOMAS A. BROWN,
County Recorder.
By NAUEN BROWN,
Deputy.

I, Thomas A. Brown, County Recorder, in and for said County of Contra Costa, do certify that the foregoing is a correct copy of an instrument on record, in Volume 1 of Book of Land Titles, pages 415, 416, 417, 418, as appears from said records in this office.

Witness my hand with my private seal affixed, there [SEAL.] being no seal provided for said office, this 21st of June, 1852.

THOMAS A. BROWN,
County Recorder.

Filed in office, July 6th, 1852.
(Signed) GEORGE FISHER,
Secretary.

M.

Copy of the Will of Luis Ma. Peralta.

En el nombre de la Santissima Trinidad, Padre, Hijo y Espiritu Santo, tres personas distintas, y un Solo Dios verdadero, y en presencia de la Santissima Virgen Maria mi Senora, del glorioso Arcangel San Miguel y San Rafael, Angel de mi guarda y Custodia y devocion. Yo Luis Ma. Peralta, hallandome en mi entero juicio y entendimiento, aun que en una edad avansada y como esta vida mortal es tan incierta, dispongo este mi testamento en la mejor forma y lo declaro por mi ultima voluntad y testamento y es conforme Signe.

En primer lugar mando a mis hijos varrones le den sepultura a mi asqueroso Cadaver en la contigua Mision de Santa Clara, llevandole a la Yglesia, possien dole en las mismas andas en que ponen a mis proximos los Indios; y se manden decir una misa rezada de Cuerpo presente y despues para sepultarle se digan para sufragio de mi alma todos los responsas rezados que sea posible las que pagaran mis hijos juntamente con la misa; y despues se pasaran a dar cumplimento a este mi ultima testamento, y es como signe.

Primeramente—Dejo la Casa de mi residencia en este pueblo de San Jose Guadalupe, con la huerta de arboles, todo el terreno que le toca y pertenece y todo lo demas del terreno contiguo a la dicha Casa juntamento con todo lo que anexo sea a esta propiedad a favor

de mis dos hijos Maria Josefa Peralta y Maria Guadalupe Peralta, en plena propiedad y dominio. Y encarge a estas hijas se mantenzan siempre juntas en buena paz y union disfrutando de esta finea de Comunidad las dos, como duenas absolutas de ella. Mas digo con particularidad que todo que hay en esta Casa, es mi propiedad y en tal Concepto dejo todo ello a mis dos enunciad as hijas, siendo la imagen del Senor San Jose y N. S. de Guadalupe para mi dicha hya Maria Guadalupe: y el Santo Cristo, la Dolorosa para mi citàda hija, Maria Josefa.

Ytem. Mando a estas dos hijos que se mantengan en paz disfrutando de la propriedad que les dejo; pero si por Casamiento o otro motivo quisiere alguna separarse de la otra bien pueden las dos convenirse pa. esto y cualquiera otra disposicion de sus negocias domesticos, o de su propriedad de la que ellas quedan duenas y Senoras, Sus que nadie pueda estor vorlos jamos, y que permanescan siempre juntas sirviendose de angel de la guarida la una para la otra para que Dios N. S. las guarda de las tempestades del mundo y de toda persona mal intencionada.

Y en cuanto a los bienes de Campo que me pertenecen, esto es el ganado, dijo que cuando se ca saron mis hijos Mario Teodora, Ignacio, Domingo y Trinidad, se les dio a cada uno dos vacas paridas, por estar al principio la crea del ganado, pero despues se les dio mas ganado como ellos mismos pueden decir, pues saben decir la verdad. Tambien se le entrego en il ano de 1831 a Guillermo Castro dos Cientas y treinta Cabezas de ganado mayor que tocaron a su miyer Maria Luisa Peralta, mi hija. Tambien vuelvo a repetir que se ha dado a Maria Teodora y Maria Trinidad mis hijas dos cientas Cabezas de ganado a cada una, a mi hijo Ygnacio se le dio tres Cientas Cabezas de ganado y a mas los que se le ha dado a mi hijo Domingo en otras ocasiones, mando que se le de Cien Cabezas de ganado Asi mis mo mando que del ganado que haz en San Antonio como en el Temascal que se reconoce ser mio se les dara a mis dos hijas Maria Josefa y Maria Guadalupe dos Cientas Cabezas a cada una, y lo que queda restante en el Temascal queda a favor de mi hijo Vicente; y el que quedara restante en San Antonio queda a favor de mi hijo Antonio Maria. Del ganado de estas dos hermanas Maria Josefa y Maria Guadalupe tendran Cuidado los meneionados hermanas mi embargo de que les tengo Senalados a estos sus respectivas terrenas.

Declaro que estos terrenos comprehenden toda mi propriedad del Rancho de San Antonio, cuyos titulos de concesion y posesion estan en pader de mi hijo Ignacio y cuyo terreno he repartido za cosmo donacion "*inter vivos*" a la entera satisfaccion de mis hijos varones a quienes hice dho donacion, y la que a nora ratifico por el presente.

Declaro que no debo nada a nadie y que me debe Nazario Berreyeza o sus sucesores quinze pesos hace muchos anos.

Nombro por primer Albacea de este mi testamente a mi hijo Ignacio Peralta y mi hijo Antonio Maria Peralta por segunda Albacea

para que ayudados de los demas den cumplimiento a todo lo que dejo mandado.

En fin, mando que todos mis hijos se manten gan en paz sirriendose unos a otros sus necesidades disfrutando en paz lo poco que vuestro padre os deja desponiendo toda codicia ambiciosa sin andar con diferencia por uno ni dos becerros pues los vacas paren todos los anos como el terreno es tan angosto es indispensable que los ganados se dejen juntor; por lo que mando a mis hijos tingan buena union. Ultimamente mando a todos mis hijos e hijos se mantengan y crian a sus hijos en el santo temor de Dios dandoles buen ejemplo y apurtundoles de toda mala compania para que Dios nuestro senor les ocha su bendiccion, la misma que yo les dejo en el nombre del Padre y del hijo y del Espiritu Santo. Amen.

Y declaro que esta es mi ultima voluntad y testamento, dictado por mi mismo y escrito en mi presencia, leido y firmado por mi mismo, y por el presente revoco y anulo todo otro testamento o testamentos codicilo o codicilios que yo haya otorgado y los doy por nulos y de ningun valor en juicio o fuera de el. En fe de lo cual he firmado este hoy veinte y nueve de Abril de mil ocho cientos cincuenta y una en la Ciudad de San Jose, y en presencia de tos testigos que he llamado para que sirvan como testigos de este mi ultima voluntad.

LUIS MA. PERALTA. [SEAL.]

Como testigos,
DIEGO ALEX. FORBES,
PADRE JUAN NOBILI, S. J.,
DOMO. DAVINI.

State of California, County of Santa Clara.

I, H. C. Melone, Clerk of the Probate of Santa Clara County, do hereby certify the foregoing is a true copy of the original will now on file in this office.

[SEAL.] Given under my hand and private seal, there being no official seal yet provided at office, this 12th day of May, 1852.

H. C. MELONE,
Clerk, Probate Court, S. C. C.

Filed in office June 17th, 1852.

GEO. FISHER,
Secretary.

"M," "M."

Translation of Luis Peralta's Will.

Translation.

In the name of the most Holy Trinity, Father, Son, and Holy Ghost, three distinct persons and one only true God, and in the presence of the most Holy Virgin Mary, my Lady, of the glorious Archangel Saint Michel, Saint Gabriel, and Saint Rafael, my guardian and protecting angel, and of my devotion.

I, Luis Maria Peralta, being in the entire use of my mental faculties, although of an advanced age, and bearing in mind the uncertainty of this mortal life, I hereby make this my will in the best form, and declare it to be my last will and testament, and it is as follows:

In the first place, I command my sons to have my body buried in the neighboring Mission of Santa Clara, carrying it to the church, placing it upon the same hearse that is used for my fellow-men, the Indians, and that they, my sons, shall cause one low mass to be said of requien, and afterwards, at the time of my burial, they shall cause to be said at that time as many responsaries as may be possible for the repose of my soul, for which they, my sons, shall pay alms, and afterwards proceed to the execution of this my last will, as follows:

Firstly. I leave the house of my residence, in the town of San Jose Guadalupe, with the orchard of fruit trees, all the land which appertains to and belongs to the said orchard, and all the rest of the land contiguous to the said house, together with all the appurtenances of this property, in favor of my two daughters, Maria Josefa Peralta and Maria Guadalupe Peralta, in full ownership and dominion, and I encharge these daughters to remain always together in peace and union, enjoying the property mutually as absolute owners thereof. Moreover, I declare particularly that everything that is in this house is my property, and as such I leave it to my above-mentioned daughters,—the picture of St. Joseph and our Lady Guadalupe being for my said daughter Guadalupe, and the crucifix and our Lady of Dolores for my said daughter Maria Josefa.

I command these two daughters to remain in peace, enjoying the property that I leave them, but if, by marriage or other motive, either one of them should wish to separate from the other, then the two may make such agreement as they shall deem fit for this and for any other arrangement of their domestic affairs, or of their property, of which they remain the owners and mistresses without ever being disturbed by any person, and may they remain always together, the one serving the other as her guardian angel, that God our Lord may preserve them from the storms of this world, and from all ill-inclined persons.

As regards the cattle that belong to me, that is to say horned cattle, I declare that on the marriage of my children, Maria Teadora, Ignacio, Domingo, and Trinidad, to each one were two cows and calves, by reason of having just commenced the bearing of my cattle, but afterwards they received in gift more cattle as they themselves can say as they know how to speak the truth. Also in the year 1831, there were delivered to William Castro, two hundred and thirty head of horned cattle, which were the marriage portion of his wife Maria Luisa Peralta, my daughter. Also I repeat again that there have been given to my daughter, Maria Teodora and Maria Trinidad two

hundred head of horned cattle, and to my son Ygnacio three hundred head of cattle, and over and above those which have already been given to my son Domingo, I command that there be given to him one hundred head of cattle. I likewise command that out of the cattle in San Antonio and Temescal, that shall be found to belong to me, there shall be given two hundred head to each one of my daughters, Maria Josefa and Maria Guadalupe, and the remainder in Temascal shall belong to my son Vicente, and the remainder in San Antonio shall belong to my son Antonio Maria, and these two brothers shall take the charge of the cattle of the two sisters, Maria Josefa and Maria Guadalupe, inasmuch as I have already portioned out to my sons their respective lands. I declare that these lands comprehend all my property of the rancho of San Antonio, the title of whose concession and possession are in the hands of my son Ignacio, and which lands I have already divided among my sons as a donation "inter vivos" to their entire satisfaction, and which donation, by these presents, I hereby ratify. I declare that I owe no man, and that Ignacio Bereyesa owes me fifteen dollars. I name as first executor of this my will my son, Ignacio Peralta, and my son, Antonio Maria, as second executor, that they, aided by the rest, may fulfil all that I have ordained. Finally, I command all my children that they remain in peace, succoring each other in your necessities, eschewing all avaricious ambition, without entering into foolish differences for one or two calves, for the cows bring them forth every year, and inasmuch as the land is narrow, it is indispensable that the cattle should become mixed up, for which reason I command my sons to be friendly and united.

Lastly, I command all my children, sons and daughters, to educate and bring up their children in the holy fear of God, showing them good example and keeping them from all bad company, in order that God our Lord may shower upon them his blessings the same which I leave to you in the name of the Father, the Son and the Holy Ghost.

I declare that this is my last will and testament dictated by me, and written in my presence, read and signed by myself; and by these presents I revoke and annul all and every other will or wills, codicil and codicils, that I may have executed: I declare it or them null and of no value in law or otherwise. In testimony whereof I have hereunto placed my hand this twenty-ninth day of April, one thousand eight hundred and fifty-one, in the city of San Jose, and in the presence of the witnesses that I have called to serve as such witnesses of this my last will.

(Signed) LUIS MA. PERALTA. [SEAL.]

Witness,
JAS. ALEX. FORBES.
(Signed) PADRE JUAN NOBILE, S. J. DOMO. DAVINE.

I hereby certify, that the foregoing is a true copy and correct translation of the will hereunto annexed.

JAS. ALEX. FORBES.

Sworn to before me this ninth day of September, 1851.

J. W. REDMAN,
County Judge of Santa Clara.

State of California, County of Santa Clara.

I, H. C. Malone, County Clerk of Santa Clara County, and ex-officio clerk of the Probate Court of said county, certify that the foregoing is a true copy of the translation of the will of Luis Peralta, made by James Alexander Forbes, and of file with and annexed to the original will in the Spanish language now in my office.

Given under my hand and private seal (there being yet no official seal provided) at office, this 26th day of March, 1852. [SEAL.]

H. C. MALONE,
Clerk.

By R. B. BUCHNIR,
Deputy.

Filed in office May 31st, 1852.

(Signed) GEORGE FISHER,
Secretary.

[1 S. D. K.]

N. Letter from Luis Peralta, to Captain Luis Arguello.

Pueblo de San Jose, 31 de Maro. de 1824.

Sor. Capn.

Mi estimado compn. ya considero las grandes atenciones qe. V. tiene en las actuales circumstancias, pues V. me dispense pues ya save V. qe. no tengo otro a quien bolber los ojos mas de a V. y quiero en su tiempo y en mi fallesimiento que queda mi familia duena y posedora de lo qe. mis cortas fuerzas hace podido adquirirles.

Mi Tente. Sor. Dn. Ignacio Martinez me ha dicho qe. V. le mande suspendiese darme la posesion del terreno qe. el decreto de 30 de Junio del ano pasado le manda me de; y si V. lo yeba a bien, espero qe. en cuatro letras le diga lo verifique, pues aun qe. tengo puesto algun ganado en el, se me esta arrendando y subiendo a la Cierra por falta de Corral, y quiero aserlo para qe. no se me estrabie, para cuyo efecto espero se me de la posesion, lo que puede aser mi teniente sin salirse de su casa, pues ya sabe como quedaron las mojoneras puestas en aquel tiempo qe. me dio la posesion.

Se lo suplico a V. encuresidamte. por vida de la Senora, nino y nina, por qe. ha llegado a mi noticia qe. aqui tray un onjeto qe. piensa frustrar su decreto, y pa. qe. a este y a otros se les quite de

la Cabeza espero el favor de V. como tambien de darme a mi alguna noticia para mi govierno.

[2 S. D. K.]

Recive espresiones de su Come. y familia y las dara de todos a la Senora qe. V. mande a su Compe. que lo estima de Corazon y ato. S. M. B.

LUIS PERALTA.

Office of the Surveyor-General of the United States for California.

I, Samuel D. King, Surveyor-General of the United States for California.

I, Samuel D. King, Surveyor-General of the United States for the State of California, and as such, now having in my office and under my charge, a portion of the archives of the former Spanish or Mexican Territory or Department of Upper California, do hereby certify that the two preceding and hereunto annexed pages of tracing paper, numbers one and two, and each of which is verified by my initials (S. D. K.) exhibit a true and accurate copy of a document on file and forming part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially, and affixed my private seal (not having a seal of office), at the city of San Francisco, California, this second day of June, 1852.

SAMUEL D. KING,
Sur. Gen. Cal.

Filed in office, July 9th, 1852.

GEORGE FISHER,
Secretary.

Translation made and filed in office, August 11th, 1852.

GEORGE FISHER,
Secretary.

"A." "A."

Translation of Luis Peralta's Letter.

Pueblo of San Jose, March 31st, 1824.

Senor Captain, my esteemed (compadre) friend:

Already I value the great attentions that you have, in the present circumstances; you may pardon me, therefore, as you know I have no other to whom I may look, wishing, as I do, that my family may remain owner and possessor during the present time and after my death, of that which my feeble efforts have been able to acquire for them.

My Lieutenant, Don Ignacio Martinez, has apprised me that you have ordered him to suspend giving me possession of the land that the decree of the 30th of June, of the past year, orders him to give me. If you judge it proper, I hope that in few words you will tell him to do so (give possession), as I have placed some cattle on the land, and which are straying about over the hills for want of a corral, and I wish to make a corral in order that they may not scatter, to which

effect I hope that possession may be given me, which my Lieutenant can do without leaving his house, as he knows how the landmarks remain, which were placed at the time of giving possession.

I supplicate you earnestly, in behalf of my wife, son, and daughter, as a notice has reached me that some one thinks to frustrate your decree (consent); I hope that this and others may not operate against it. It is your favor only I desire, and that some notice may be given me for my direction.

Receive the thanks of your (comadre) (female friend), and present the same, on the part of all of us, to your lady, and you may command your friend, who esteems you with all his reach.

And kisses your hands,

LUIS PERALTA.

I certify the foregoing to be a true and correct translation from an authenticated copy of the Spanish original, on file in the office of the United States Surveyor-General for California, which copy is on file in this office, in case No. 4, Vicente Peralta et al., San Antonio.

GEO. FISHER,
Secretary.

Translation made, and filed in office, August 11th, 1852.

(Signed) GEO. FISHER,
Secretary.

9.

Place of a Stamp on the Original.

205.

Don Luis Peralta, on 14 de Febrero de 1844.

Se le dio titulo del paraje de San Anto. en estencion de cinco sitios de Ganado Mayor.

"*O.*"

Extract from Book of Titles, for 1844.

Office of the Surveyor-General of the United States for California.

I, Samuel D. King, Surveyor-General of the United States for California, and as such now having in my office and under my custody a portion of the archives of the former Spanish and Mexican Territory or department of Upper California, do hereby certify that the above and foregoing writing is truly copied from the book of titles for the year 1844, on file and forming part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially, and affixed my private seal (not having a seal of office), at the City of San Francisco, California, this 22d day of June, 1852.

SAMUEL D. KING,
Surveyor-General, California.

Filed in office, July 9th, 1852.
(Signed) GEO. FISHER,
Secretary.

Translation made in office, and filed August 11th, 1852.
(Signed) GEO. FISHER,
Secretary.

205. [L. S.]

Don Luis Peralta, on the 14th of February, 1844.

A title was given to him of the place called San Antonio, to the extent of five square leagues (sitios de ganado mayor).

"*U.*"

Translation of "O." Extract from Book of Titles, for 1844.

Office of the Board of Commissioners of California Land Claims.

I certify the foregoing to be a true translation from the original, filed in this office in case No. 4.

GEO. FISHER,
Secretary.

San Francisco, August 11th, 1852.

Filed in office, August 11th, 1852.
(Signed) GEO. FISHER,
Secretary.

[1 S. D. K.] "P."

Act of Adhesion of California to the Mexican Empire.

En el Presidio de Monterrey a nueve dias del mesde Abril de mil ocho cientos veinte y dos, el Sor. Gobernador Militar y Politico de esta Provincia, Coronel D. Pablo Vicente de Sola: los Senores Capitanes Comandantes de los Presidios y Territorios de Stn. Barbara y Sn. Francisco Don Jose Antonio de la Guerra y Noriega y Dn. Luis Antonio Arguello: los Capitanes de las Companias de Melicias de los Batallones de Tepic y Mazatlan Dn. Jose Antonio Navarrete y D. Pablo de la Portilla: el Teniente D. Jose Maria Estudillo por la Compania del Presidio de Sn. Diego el Teniente graduado Dn. Jose Mariano Estrada por la que guarnece este de Monterey: el Teniente graduado de Artilleria Dn. Manuel Gomez como Comandante de ne Arma y los Rs. Ps. Fr. Mariano Payeras y Fr. Vicente Franco. de Sarria, el primero como Prelado de estas Misiones y el segundo como substituto del R. P. Presidente Vicario foranes Fr. Jose Senan; Recinedos por medio de auteriores Convocatorias en la Sala de este Govierno, y subedores de la feliz instalacion de la Regencia del Imperio y Soberana Junta provisional Gobernativa en la Capital de Mexico por los oficios y demas documentos que el expresado Senor Gobernador hizo leer en plena junta, Dixeron que por si y sus subordinados estaban decididos a dar cumplimiento a las ordenes que

intimaba el nuevo Supremo Gobierno, reconociendo desde luego esta Provincia por solo dependiente del Gobierno del Imperio Mexicano e independiente de la Dominacion Espanola y de cualquier otra Potencia extrangera; en cuya virtud devia procederze al Correspondiente, juramento en los terminos prescritos por la Re-
[2 S. D. K.] gencia Gobernadora interina, para cugo efecto deben darze las opertunas providencias por el enunciado Gefe Superior Militar y Politico y los Comandantes respectivos de Presidios y Ministros de los Misiones haran Courtor en cumplimiento por medio de Certificaciones que se remitiran con Copia de esta acta al Exmo Sor Ministro a quien corresponde y lo firmaron.

PABLO VICENTE DE SOLA,
JOSE DE LA GUERRA Y NORRIEGA,
JOSE ANTONIO NAVARRETE,
JOSE MA. ESTUDILLO,
MANUEL GOMEZ,
FR. VICENTE FRANCO. DE SARRIA,
LUIS ANTONIO ARGUELLO,
PABLO DE LA PORTILLA,
JOSE MARIANO CRUZADO,
FR. MARIANO PAYERAS.

JOSE MA. ESTUDILLO,
Vocl. Secreto.

[3 S. D. K.]

En el Presidio de Monterrey a onze dias del mes de Abril de mil ocho cientos veinte y dos, Certifico yo el infrascrito vocal Secretario que previa las disposiciones preventivas qe. ordena la Regencia del Imperio, consequentes a lo mandado por la Soberano Junta provisional gobernativa se Juro hoy en esta Capital de la nueva California la Independencia del Imperio por el Gefe Militar y Politico de ella, por los Senores y Rs. Ps. que firmaron el Acta en que se acordo la obediencia al Nuevo Supremo Gobierno, por los Senores oficiales y Propa de la Guarnicion, y finalmente pr todo su vecindario concluyendo ton solemne acto con una magestuasa fumion de Iglesia, continuos vivas, Salvas repetidas de fusil y Canon, Musica e iluminaciones, y cuanto se creyo conducente a la completa celebridad de tan fausto dia.

JOSE MA. ESTUDILLO,
Vocal Secreto.

En el Presidio de Monterey, Capital de la Provincia de la Alta California, a veiente y un dias del mes de Mayo de mil ocho cuentos veinte y dos, Segundo de la Independencia; en la Sala de Gobierno, hallandose congregados el Gefe Politico de la misma Coronel Dn. Pablo Vicente de Sola, teniente de la Compa. de Caballeria del Citado Dn. Jose Maria Estudillo, el Alfz. de la misma graduada de

Teniente Dn. Jose Mariano Estrada, y el teniente graduado y Alfs. de artilleria Dn. Manuel Gomez citados ante diem, en union de los Senores Electores de provincia Dn. Francesco de Castro, Elector nombrado por la villa de Branciforte, Pueblo de Sn. Jose y los Misiones de Sn. Francisco Sn. Jose Sn. Clara y Sn. Cruz y Dn. Jose Aren por el Presidio de Monterrey y los Misiones de Sn. Juan Bautista, San Carlos, Soledad Sn. Antonio, Sn. Miguel y Sn. Luis Obispo; Dn. Francisco Ortega, por el Presidio de Ste.
[4 S. D. K.] Barbora y la Mision nombrada ase, y los de Sn. Buenaventura, Sn. Fernando Ste. Ines y la Purisima; Dn. Jose Palomares por el Pueblo nombrado de Ntra Sra. de los Angeles, y Dn. Ignacio Lopes pr el Presidio de Sn. Diego, la mision de igual nombre y los de Sn. Luis Rey Sn. Juan Capistrano y Sn. Gabriel, Dixeron ante mi el infrascrito Secretario: que nombrabon y nombraron por Diputado para las Cortes Constitugentes del Imperio a dho Sor Coronel Dn. Pablo Vizente de Sola, y para su Suplente el Capitan de la Compania de caballeria del Presidio de Sn. Francisco, Dn. Luis Antonio Arguello; y trasladan en sus personas la facultad y poder que les confirieron los cuidadanos que componen los Pueblos y Partidos de ella por medio de sus respectivos Ayuntamientos para cumplir y desempenor los importantisimos funciones de su encargo, y para que con los demas Disputados de Cortes, en representacion de la Nacion Mexicana, todos los Reynos, Provincias, Partidas, Cuidades, Villas, Congregaciones, Pueblos, Barrios, Reduciones, Misiones, Haciendas, Ranchos y Cuidadanos de todas Clases, sui distincion alguna, puedan acorder y resolber cuanto entendieron ser conducente al bien general de ella y en uso de la facultad que le han concedido, constituyen el Gobierno del Imperio bajo los bases fundamentales del Plan de Yguala y tratado de la villa de Cordova estableciendo la Separacion absoluta del poder legislativo del ejecutivo y judicial para que nunca pueden reuniose en una sola persona y qe. los otorgantes se obligan por si mismos y a nombre de todos los cuidadanos de esta Provincia en virtud de los facultades que les Confirieron pa. el efecto como electores nombrados para este acto y tener por valido y obedecer y cumplir cuanto como tales Diputados de Cortes hicieron y se resolvieren pr estos constitugentes del Gobierno de la Nacion Mexicana: que del mismo mado obligan a los Cuidadanos de la Provincia a que les obedecen en cuanto disponogan y determinen respetando la Constitucion que establescon
[5 S. D. K.] como la Ley fundamental del Imperio y que en atencion a ser esta Provincia ultra marina y haber de esperor proporcion de bugues pa. embarcarse con destino a Sn. Blas, a Acapulco, y de alle pasar a le imperial de Mejico, y ser impossible lleyar a ella, en el presente ano, y lo mas prouto a principio del Signiente, siendo adaptable a las Cortes Valga el presente poder para los dos Sucesivos, y de lo contrario se de aviso pa. la nueva eleccion de los que puedan sucederle, Asi lo expresaron y otorgaron mandando se

de esta credencial de su eleccion al Sor Coronel Dn. Pablo Vizente de Sola y lo firmo con migo el mismo Senor con los Senores electores y testigos de este acto.

FRANCO. CASTRO, JOSE ARUZ,
FRANCO. DE ORTEGA, JOSE PALOMARES.

Por no saber formor Dn. Ignacio Lopez puso la senal de la Santa Cruz.

JOSE MARIA ESTRADA, PABLO VICENTE DE SOLA,
MANUEL GOMEZ,
JOSE MA. ESTUDILLO,
Secreto.

[6 S. D. K.]

En el Presidio de Monterey de la Alta California a nuebe dias del mes de noviembre del ano de mil ocho Cientos veinte y dos, en la Sala principal de la Casa de Gobierno de la misma, el Sor Coronel Dn. Pablo Vizente de Sola, Gefe Superior Politico y Militar de la misma Congregados en Junta los Senores Electores Dn. Franco. de Ortega, Dn. Jose Aruz, Dn. Jose Palomares, Dn. Franco Castro y Dn. Jose Lopez, para la votacion de los individuos que hayan de ser vocales en la Diputacion Provincial que se ba a instalor, cuya operacion no se hizo en once de Abril del presente Ano Como previene la Constitucion de la Monarquia Espanola a Causa de que en toda ella no hay mos habitantes que veinte y cuatro mil Ciento noventa, en Cuyo numero se comprehenden Veinte y un mil noventa y seis personas de nuebos ciudadanos los cuales se hallan en calidad de neofitos en los veinte misiones de la misma provincia, y los dos mil novecientos noventa y cuatro individuos restantes son soldados de los cuatro companias presidiales, sus mujeres e hyos y invalidos, mujeres, e hyos de estos, y habiendole manifestado al Sor Comisionade de ambos, Californias por la Soberano Regencia del Imperio Dr. Dn. Agustin Fernandez de Sn. Vizente Racionero de la Santa Iglesia Catedral de Durongo para que conociese en vista de esto la causa por que no tubo a bien se instalase antes la expresada Diputacion Provincial le contesto a esto dho Senor que trahia orden expresa para dho instalamiento, y hechole tambien presente la absoluta falta de personas de instruccion y comadidades pa. que Clenasen los empleos con el decoro que les corresponde Dyo a esto qe. con los mismos electores podica instalarse nombrando de Secretario a uno de los mismos y en su Consecuencia Salieron electos para Secreto. el Alfs. de la Compa. auxiliar de Sn. Blas Dn. Franco de Otero, y pa Diputados de 1° Dn. Jose Aruz, para 2° Dn. Franco. Ortega pa. 3° Dn. Franco. Castro para 4° Dn. Jose Palomares pa. 5° Dn. Carlos Castro y para sento Don Jose Antonio Carrillo, y para suplentes Don Antonio Castro y Don Jose Castro quienes prestaron el juramento ante el repetido Sor Gefe Politico de guandor la Constitucion politica de la Monarquia Espanola, observar las Leyes, ser

[7 S. D. K.] fieles al Emperador y cumplir religiosa mente las obligaciones de su Encargo.

Antes de haberse unido pa los actos qe. van referidas precedio una solemna misa y exertacion o discurso analogo al dia qe. hizo el R. P. Fr. Mariano Payeras Prefecto Comisario en estas Misiones y desps. el Te-Deum y Salbas de artilleria haciendo lo mismo la tropa de la Compa. de infanteria auxiliar de Sn. Blas, con cuyos actos se conclugo dha instalacion hallandose presentes en Calidad de testigos al tiempo de firmar este acta el Capitan Aro como Secretario, y Cadete Dn. Jose Joaquin de la Torre. Asi lo acordaron y firmaron los Senores Vocales y Presidente en esta Junta en la referida Sala prol del Govno. en esta Prova.

JOSE ARUZ, PABLO VIZENTE DE SOLA,
FRANCO. CASTRO, FRANCO. DE ORTEGA,
CARLOS CASTRO, JOSE PALOMARES,
ANTO. CASTRO, JOSE CASTRO.

de assa.
JOSE ANTO. NAVARRETE.
de assa.
JOSE JOAQN. DE LA TORRE. FRANCO DE HARO,
Secretario.

Office of the Surveyor-General of the United States for California.

I, Samuel D. King, Surveyor-General of the United States for California, and as such, now having in my office and under my control, a portion of the former Spanish and Mexican Territory or Department of Upper California, do hereby certify that the seven preceding and hereunto annexed pages of tracing paper, numbered from one to seven inclusive, and each of which is verified by my initials, (S. D. K.,) exhibit true and accurate copies of certain documents on file, and forming part of the said archives in this office.

In testimony whereof, I have hereunto signed my name, officially, and affixed my private seal (not having a seal of office), at the City of San Francisco, Cal., this eighteenth day of May, 1852.

SAML. D. KING,
Sur.-Gen. Cal.

Translation made and filed in office, Aug. 11th, 1852.

GEO. FISHER,
Sec.

Filed in office, July 9th, 1852.

GEO. FISHER,
Sec.

"*P.*" "*P.*" *Translation of Exhibit* "*P.*"

At the Presidio of Monterey, on the 9th day of the month of April, 1822, the Military and Political Governor of this Presidio, Colonel Don Pablo Vicente de Sola, the captains commanding the presidios and territories of Santa Barbara and San Francisco, Don Jose Antonio de la Guerra y Norriega and Don Luis Antonio Arguello, the captains of all the companies of the battalions of the

militia of Pepie and Mazatlan, Don Jose Navarrete and Don Pablo de la Portilla, Lieutenant Don Jose Maria Estudillo, for the company of the presidio of San Diego, brevet Lieutenant Don Jose Mariano Estrada, for the garrison of that of Monterrey, brevet of Lieut. of artillery Don Manuel Gomez, in his capacity of commandant of artillery, and the Reverend Fathers, the Friars Mariano Payeras, and Vicente Francisco de Sarria, the former in his capacity of prelate of these missions, and the latter as deputy for the Reverend Fathers, president forensic, Vicar Friar Jose Senan, having been assembled by previous resolutions at the hall of this government, and being informed of the happy instalment of the regency of the empire, and of the provisional Gobernatorial and Supreme Board in the capital of Mexico, from the official communications and other documents, that the aforesaid Governor caused to be read in full assembly, they said, that for themselves and their subordinates they had determined to fulfil the orders communicated to them by the Supreme Government, and that, from that time forward, they acknowledged this province as being only dependent of the Government of the Mexican Empire, and independent of the Spanish domination, and of any other foreign power, in virtue whereof, they should procure to take the corresponding oath under the terms prescribed by the Gobernatorial Regency ad interim, to which effect the necessary provisions are to be adopted by the aforesaid Military and Political Superior Chief, and the respective commandants of the presidios, which the ministers of the missions will attest through certificates to be transmitted together with a copy of this act to the corresponding department, and they did sign it.

(Signed)
PABLO VIZENTE DE SOLA,
JOSE DE LA GUERRA Y NORRIEGA,
LUIS ANTONIO ARGUELLO,
JOSE ANTONIO NAVARRETE,
PABLO DE LA PORTILLA,
JOSE MARIA ESTUDILLO,
JOSE MARIA ESTRADA,
MANUEL GOMEZ,
FR. MARIANO PAYERAS,
FR. VICENTE FRANCISCO DE SARRIA.
JOSE MARIA ESTUDILLO,
Member Secretary.

At the Presidio of Monterey, on the 11th day of the month of April, 1822, I, the undersigned member, secretary, certify, that having previously adopted the preventive dispositions ordered by the Regency of the Empire, and in compliance with the provisions of the provisional gubernatorial and supreme board to-day, and in this capital of the New California, the independence of the empire has

been sworn to by its Military and Political Chief, by the gentlemen and Reverend Fathers, who signed the act, whereby they agreed to obey the New Supreme Government, by the officers and troops of the Garrison, and lastly, by all its inhabitants. This solemn act was concluded with suitable church service, continued hurras, repeated salutes of muskets and guns, music, illuminations, and whatever else was deemed proper to the complete celebration of so glorious a day.

(Signed) JOSE MARIA ESTUDILLO,
Member Secretary.

At the Presidio of Monterey, capital of the province of Upper California, on the 21st day of the month of May, 1822, and the second of the Independence, at the Hall of the Government, being assembled, the Political Chief of the same, Colonel Don Pablo Vicente de Sola, lieutenant of the company of cavalry of the State, Don Jose Mariano Estudillo, brevet Lieut. of the same, Don Jose Mariano Estrada, and brevet Lieut. of artillery, Don Manuel Gomez, who were summoned ante diem, together with the electors of the province, Don Francisco de Castro, elector of the town of Branciforte, Pueblo de San Jose and the Missions of San Francisco, San Jose, Santa Clara and Santa Cruz, and Don Jose Auz, elector for the presidio of Monterey, and the Missions of San Juan Bautista, San Carlos, Soledad, San Antonio, San Miguel and San Luis Obispo, Don Francisco Ortega, for the presidio of Santa Barbara, the mission of the same name, that of San Buenaventura, San Fernando, Santa Ines and Le Purisima, Don Jose Palomares, for the Pueblo named Nuestra Senora de los Angeles and Don Ygnacio Lopez, for the presidio of San Diego, the mission of the same name, and those of San Luis Rey, San Juan Capistrono and San Gabriel, before me the undersigned secretary, they said:

That they appointed and did appoint as Deputy to the "Cortes Constituyentes" of the Empire, said Colonel Don Pablo Vicente de Sola, and as his Deputy, the Captain of the Company of Cavalry of the presidio of San Francisco, Don Luis Antonio Arguello, vesting in him the powers which were conferred on them by the citizens composing the pueblos and districts thereof, through their respective Ayuntamientos, that we may fulfil and discharge the very important functions of his commission, and that in conjunction with the other deputies to the Cortes, representing the Mexican nation, all the kingdoms, provinces, districts, cities, towns, congregations, pueblos, suburbs, settlements of Indians christianized, missions, estates, ranchos, and citizens of all classes, without any distinction, he may agree and determine whatever he may see proper to promote the general welfare thereof, and by virtue of the power they have vested him with, he may organize the Government of the Empire under the fundamental basis of the "Plan de Yguala," and the treaty of the

town of Cordova, and may establish the absolute separation of the legitimate from the executive and judiciary power, that they may never be united in the same person. The grantors bind themselves, and in the name of all the citizens of this province, in virtue of the powers conferred on them to that effect, in their capacity of electors to see from this act, that they shall hold as valid, and shall obey and fulfil whatever these deputies to the "Cortes" shall do and resolve in such acts as may be passed by the Constituent Government of the Mexican nation. Moreover, that they shall order and compel the citizens of this province to obey the orders and resolutions of the same, and shall respect the constitution which they may establish as the fundamental law of the empire. And that in consequence of this being an ultramarine province, and they being under the necessity of awaiting for an opportunity to embark in a ship to sail for San Blas or Acapulco, and thence to the Imperial City of Mexico, and it being impossible to arrive there in the course of the present year, or the earliest at the beginning of the next, if the "Cortes" find it acceptable, this power shall be valid for the two following years. And if not, notice shall be given for the new election, as to the time which the power is to last. This did they state and agree, directing that this credential of election be delivered to Colonel Don Pablo Vicente de Sola, who did sign with me, and the electors and witnesses to this act.

(Signed)

FRANCISCO CASTRO,
FRANCISCO DE ORTEGA,
his
IGNACIO ⋈ LOPEZ,
mark.
JOSE MARIANO ESTRADA,
JOSE ARUZ,
JOSE PALOMARES,
PABLO VICENTE DE SOLA,
MANUEL GOMEZ,
JOSE MARIA ESTUDILLA,
Secretary.

At the Presidio of Monterey, in Upper California, on the 9th day of the month of November, of the year 1822, at the Hall of the Government of the same, Colonel Don Pablo Vicente de Sola, Military and Political Superior Chief of the same, having assembled the Board of Electors, Don Francisco de Ortega, Don Jose Aruz, Don Jose Palomares, Don Francisco Castro, and Don Jose Lopez, for the appointment by ballot of the individuals who are to serve as members of the Provincial Deputation, which is going to be installed, which act was not performed on the 11th of April, of the present year, as provided by the Constitution of the Spanish Monarchy, because in all this province there are no more than 24,190 inhabitants, including in the same number 21,196 persons of newly-adopted citizens who are the neophytes of the 20 missions in the same province, and the remaining 2994 souls are the soldiers of the four companies of the presidios, their wives and children, and the invalids, their wives and children, and inasmuch as the aforesaid chief has shown what has been stated to the Commissioner of both Californias for the Supreme

Regency of the Empire, Dr. Don Augustin Fernandez de San Vicente, Prebentory of the holy Cathedral Church of Durango, that in view of this he should perceive the cause why said chief did not install before the aforesaid Provincial Deputation; said Commissioner answered him that he was the bearer of a positive order for the said instalment, and that the said Commissioner having been informed of the absolute want of persons of learning and means to fill the office with corresponding decorum, answered that they might install the said deputation with the same electors, appointing as Secretary one of them, and in consequence, the Second Lieut. of Artillery, Company of San Blas, Don Francisco de Haro, was elected Secretary, and as Deputies, 1st, Don Jose Aruz; 2d, Don Francisco Ortega; 3d, Don Francisco Castro; 4th, Don Jose Palomares; 5th, Don Carlos Castro, and 6th, Don Jose Antonio Carillo, and as substitutes, Don Antonio Castro, and Don Jose Castro, who were duly sworn before the aforesaid Political Chief, to support the Political Constitution of the Spanish Monarchy, to keep its laws, to be faithful to the Emperor, and to fulfil religiously the obligations under their charge.

Before the meeting for said acts they assisted to a solemn mass and sermon or discourse suitable to the occasion, which was delivered by the Reverend Father, Friar Mariano Payeras, Commissionary prefect of these missions, and after the Te Deum and salute of artillery the troops belonging to the auxiliary company of San Blas did the same. These acts closed the instalment, there being present as witnesses at the signing of this act, Captain Don Jose Antonio Navarrete, Second Lieut. Don Francisco de Haro, Secretary, and Cadet Dn. Jose Joaquin de la Torre. The president and members of the said Board agreed thus and signed this in the Hall of the Government of this Province.

(Signed)

JOSE ARUZ, PABLO VIZENTE DE SOLA,
FRANCISCO CASTRO, FRANCISCO DE ORTEGA,
CARLOS CASTRO, JOSE PALOMARES,
ANTONIO CASTRO, JOSE CASTRO.

Assisting Witness.
JOSE ANTONIO NAVARRETE.

Assisting Witness.
JOSE JOAQUIN DE LA TORRE.

FRANCISCO DE HARO,
Secretary.

I certify the foregoing to be a true and correct translation from an authenticated copy of the original Spanish document on file in the office of the U. S. Surveyor-General for California, which authenticated copy is on file in this office, in case No. 4, Vicente Peralta et al., San Antonio.

GEO. FISHER,
Secretary.

town of Cordova, and may establish the absolute separation of the legitimate from the executive and judiciary power, that they may never be united in the same person. The grantors bind themselves, and in the name of all the citizens of this province, in virtue of the powers conferred on them to that effect, in their capacity of electors to see from this act, that they shall hold as valid, and shall obey and fulfil whatever these deputies to the "Cortes" shall do and resolve in such acts as may be passed by the Constituent Government of the Mexican nation. Moreover, that they shall order and compel the citizens of this province to obey the orders and resolutions of the same, and shall respect the constitution which they may establish as the fundamental law of the empire. And that in consequence of this being an ultramarine province, and they being under the necessity of awaiting for an opportunity to embark in a ship to sail for San Blas or Acapulco, and thence to the Imperial City of Mexico, and it being impossible to arrive there in the course of the present year, or the earliest at the beginning of the next, if the "Cortes" find it acceptable, this power shall be valid for the two following years. And if not, notice shall be given for the new election, as to the time which the power is to last. This did they state and agree, directing that this credential of election be delivered to Colonel Don Pablo Vicente de Sola, who did sign with me, and the electors and witnesses to this act.

(Signed)

FRANCISCO CASTRO,
FRANCISCO DE ORTEGA,
his
IGNACIO ⋈ LOPEZ,
mark.
JOSE MARIANO ESTRADA,
JOSE ARUZ,
JOSE PALOMARES,
PABLO VICENTE DE SOLA,
MANUEL GOMEZ,
JOSE MARIA ESTUDILLA,
Secretary.

At the Presidio of Monterey, in Upper California, on the 9th day of the month of November, of the year 1822, at the Hall of the Government of the same, Colonel Don Pablo Vicente de Sola, Military and Political Superior Chief of the same, having assembled the Board of Electors, Don Francisco de Ortega, Don Jose Aruz, Don Jose Palomares, Don Francisco Castro, and Don Jose Lopez, for the appointment by ballot of the individuals who are to serve as members of the Provincial Deputation, which is going to be installed, which act was not performed on the 11th of April, of the present year, as provided by the Constitution of the Spanish Monarchy, because in all this province there are no more than 24,190 inhabitants, including in the same number 21,196 persons of newly-adopted citizens who are the neophytes of the 20 missions in the same province, and the remaining 2994 souls are the soldiers of the four companies of the presidios, their wives and children, and the invalids, their wives and children, and inasmuch as the aforesaid chief has shown what has been stated to the Commissioner of both Californias for the Supreme

Regency of the Empire, Dr. Don Augustin Fernandez de San Vicente, Prebentory of the holy Cathedral Church of Durango, that in view of this he should perceive the cause why said chief did not install before the aforesaid Provincial Deputation; said Commissioner answered him that he was the bearer of a positive order for the said instalment, and that the said Commissioner having been informed of the absolute want of persons of learning and means to fill the office with corresponding decorum, answered that they might install the said deputation with the same electors, appointing as Secretary one of them, and in consequence, the Second Lieut. of Artillery, Company of San Blas, Don Francisco de Haro, was elected Secretary, and as Deputies, 1st, Don Jose Aruz; 2d, Don Francisco Ortega; 3d, Don Francisco Castro; 4th, Don Jose Palomares; 5th, Don Carlos Castro, and 6th, Don Jose Antonio Carillo, and as substitutes, Don Antonio Castro, and Don Jose Castro, who were duly sworn before the aforesaid Political Chief, to support the Political Constitution of the Spanish Monarchy, to keep its laws, to be faithful to the Emperor, and to fulfil religiously the obligations under their charge.

Before the meeting for said acts they assisted to a solemn mass and sermon or discourse suitable to the occasion, which was delivered by the Reverend Father, Friar Mariano Payeras, Commissionary prefect of these missions, and after the Te Deum and salute of artillery the troops belonging to the auxiliary company of San Blas did the same. These acts closed the instalment, there being present as witnesses at the signing of this act, Captain Don Jose Antonio Navarrete, Second Lieut. Don Francisco de Haro, Secretary, and Cadet Dn. Jose Joaquin de la Torre. The president and members of the said Board agreed thus and signed this in the Hall of the Government of this Province.

(Signed)

JOSE ARUZ, PABLO VIZENTE DE SOLA,
FRANCISCO CASTRO, FRANCISCO DE ORTEGA,
CARLOS CASTRO, JOSE PALOMARES,
ANTONIO CASTRO, JOSE CASTRO.

Assisting Witness.
JOSE ANTONIO NAVARRETE.

Assisting Witness.
JOSE JOAQUIN DE LA TORRE.

FRANCISCO DE HARO,
Secretary.

I certify the foregoing to be a true and correct translation from an authenticated copy of the original Spanish document on file in the office of the U. S. Surveyor-General for California, which authenticated copy is on file in this office, in case No. 4, Vicente Peralta et al., San Antonio.

GEO. FISHER,
Secretary.

Translation made and filed in office August 11th, 1852.

GEO. FISHER,
Secretary.

Original filed in office July 9th, 1852.

(Signed) GEO. FISHER,
Secretary.

Indice.

Presidio de Sn. Franco. y su jurisdiccion.

Q.

Index of Regist. Book, 1828.

Mission de Sn. Francisco, ... 2
Ydem Sn. Francisco, Solano, ... 3
Ydem Sn. Rafael, ... 4
Ydem Santa Clara, ... 5
Ydem San José, ... 6
Ydem Santa Cruz, ... 7

Office of the Surveyor-General of the United States for California.

I, Samuel D. King, Surveyor-General of the United States for the State of California, and as such, now having in my office and under my custody, a portion of the Archives of the former Spanish and Mexican Territory or Department of Upper California, do hereby certify that the above and foregoing writing is truly copied from the first or Index page of an unbound book, designated as "1828," cuaderno del Registro de los Sitios, Tierros y Senales que poseen los havitantes del territorio de la Na. California, which is on file as a part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially, and affixed my private seal (not having a seal of office) at the City of San Francisco, California, this sixteenth day of July, A. D. 1852.

SAMUEL D. KING,
Surveyor-General, California.

Filed in office, July 17th, 1852.

GEORGE FISHER,
Secretary.

Translation made in office and filed August 11th, 1852.

GEORGE FISHER,
Secretary.

Index.

Presidio of San Francisco and its jurisdiction.

"T."

Translation of "Q," Index of Register Book, 1828.

Mission of San Francisco, ... 2
Ditto San Francisco Solano, ... 3
Ditto San Rafael, ... 4

Mission of Santa Clara, ... 5
Ditto San Jose, ... 6
Ditto Santa Cruz, ... 7

Office of the Board of Commissioners of California Land Claims.

I certify the foregoing to be a true translation from the Spanish original, filed in this office in Case No. 4.

San Francisco, August 11th, 1853.

(Signed) GEORGE FISHER,
Secretary.

Translation made and filed in office, August 11th, 1852.

(Signed) GEORGE FISHER,
Secretary.

[1 S. D. K.] "R."

Letter.

Ntro Sor. &a.

Muy Sor. mio: Doy a V. S. cuenta como a mi paso pr el Pueblo de la Reyna de los Angeles me mostro su encargado Vizte. Felis las Cosechas de los vezos. y agregados que entre unas y otras ascienden a 1800 fs.

Han concluido todas Sus Casas, guardia, casa de Aguntamto. y quedan haciendo su iglesia, todo de adove y terrado, y con baste. amplitud y curiosidad, lo que con la disposicion de las Sementeras y el empeno con que dho Felix se ha dedicado a su fomento, me nueve a hacerlo a V. S. presente pr. que tengo a este Indo. mercedor de su Supor. piedad.

El vezo. Franco. Sinova que ha servido algum tiempo de Mayordomo en la Mision de Sn. Antonio me pidio agregarse a dho Pueblo con su familia, y se lo he concedido: asi como a Manl, Butron en el de Sn. Jose.

Los ganados van aumentandose de modo que Siendole preciso a varios darles alguna extension me han pedido algunos sitios que les he Concedido interinamte. como Son a Juan Jose Dominguez Soldo. qe. era del Presidio de Sn. Diego, y tiene en el dia 4 manadas de yeguas y como 200 reses en el Rio abajo de Sn. Gabriel Manuel Nieto por igual Causa el de la Sanga Camino Rl. de dha mision pa el Enzino, y a los hyos de la vinda Ygnacio Carrillo en el del Arroyo hondo Contiguo al antecedente basco las orns de que han de cuidar
[2 S. D. K.] de rodearlo continuamte, entre dos sus acercarlo a chichiguas ni dar a los Gents. el mas leve perjuicio ni a los ganados de la Mision y Pueblo, y asi mismo que la qe. Salgan a recojer por ningun motivo se queden a dormir fuera, de todo lo cual quedan encargados estrechampte. ambos cavos.

Aun no se de positivo el No. de fanegas Cosechadas in el Pueblo de San Jose, pero haciendo una prudente regulas. Con las noticias qe. tengo de lo qe. han alzado las misiones resulta que entre estas y

los pueblos asendaran a 20,000 fs. con cuya Considerazse. hemandado qe. ya en lo subsesivo no se pidan semillas a Sn. Blas pues se ve verificado el Caso de aumento prevenido pr. el Reglamento.

En todo lo referido se ve claramte. el eficaz efecto de las superiores providencias de V. S. asia observa. es mi principal atenca. y en ella voy experimentando los felizes progresos que son Consiguientes a sus prudentes y acertados disposiciones.

Nro Sor, &a.

Office of the Surveyor-General of the
United States for California.

I, Samuel D. King, Surveyor-General of the United States for the State of California, and as such, now having in my office and under my custody, a portion of the archives of the former Spanish and Mexican Territory or Department of Upper California, do hereby certify that the writing on the two preceding and hereunto annexed pages of tracing paper, numbered one and two, and each of which is verified by my initials (S. D. K.) is truly and accurately copied out of an *unbound book on file, and composing part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially and affixed my private seal (not having a seal of office), at the city of San Francisco, California, the 8th day of July, 1852.

SAMUEL D. KING,
Sur.-Gen. Cal.

* See additional certificate on the other side.

Office of the Surveyor-General of the
United States for California.

I, Samuel D. King, Surveyor-General of the United States, for the State of California, do further certify, that the "unbound book" referred to in my foregoing certificate, is one of the draft books of the correspondence of Governor Fages of California, with the Commandant-General of the Internal Provinces.

In testimony whereof, I have hereunto subscribed my name officially, and affixed my private seal, at the City of San Francisco, California, this 7th day of August, 1852.

SAMUEL D. KING,
Sur.-Gen. Cal.

Filed in office, July 17th, 1852.

GEORGE FISHER,
Secretary.

"*V.*"

Translation of "R" Letter.

Our Lord, &c.

20 November, 1784.

My dear Sir:—

I report to your honor that on my passing through the town of La Reyna and Los Angeles, its Commissioner, Vicente Felix, showed

me the crops of the residents and others, the whole of which crops amounts to 1800 fanegas.

They have finished all their houses, guard-house and council house, and they continue building their church all of adobe, with a terrace of sufficient capacity and elegance. This added to the prospects of the sowings, and to the exertions with which said Felix has devoted himself to its improvement, induced me to offer it to your honor's consideration, because I deem this individual worthy of your superior goodness.

The resident, Francisco Sinova, who has for some time served as steward of the Mission of San Antonia, asked me leave to locate himself, with his family, in said town, and I have allowed him to do so. I have also allowed Manuel Butron to locate himself in the town of San Jose.

The cattle increase in such proportion that several individuals, wanting more extent of land, have petitioned for some places, which I have provisionally granted them, viz., to Juan Jose Dominguez, a soldier of the Presidio of San Diego, who owns actually four droves of mares and about 200 head of cattle, a place on the river, below San Gabriel; to Manuel Nieto, for a similar reason, the place called La Zanga (ditch), on the highway to said mission, towards the encino; and to the children of the widow Ignacio Carillo a place at the Arroyo Ondo (deep creek), adjoining to the aforesaid, with the understanding that they both shall make the rodeos of their cattle, and not to allow them approach the rancherios (settlements), nor cause the least injury to the Indians or to the cattle of the Mission and the Pueblo, and that those persons who may be sent to gather the cattle shall not be permitted, in any case, to spend their nights without; for the punctual fulfilment of said orders both corporals are thus commanded.

I do not know yet the number of fanegas collected in the Pueblo of San Jose; but according to a pendant estimate from the statements I have received in regard to the harvest gathered by the Missions, it results that adding this to those of the Pueblo, it will amount to 20,000 fanegas.

Consequently I have directed that in future no seeds shall be asked from San Blas, inasmuch as the increase prescribed in the regulations has been realized. From the facts stated, the efficacy of your honor's superior measures is evident; to the observance of which I give my principal attention, and thus experience the happy progress derived from your wise and well-adapted dispositions.

Our Lord, &c.

Office of the Board of Commissioners of California Land Claims.

I certify the foregoing to be a true translation from the Spanish original, filed in this office, in case No. 4.

GEO. FISHER,
Secretary.

San Francisco, August 12th, 1852.

Filed in office, August 12th, 1852.
(Signed) GEO. FISHER,
Secretary.

"I."

Agreement.

Before United States Commissioner.

Petition of Vicente Peralta and others, in the matter of the Rancho de San Antonio, in the County of Contra Costa.

It is agreed in this case that the petition shall be so construed as to ask a separate decree for each claimant, according to the divisions made by Don Luis Peralta, and confirmed by the last will and testament of Don Louis Peralta. Irvin & Rose representing all the claimants, and Jones, Tompkins, & Strode representing Antonio Peralta and Ignacio Peralta.

JONES, TOMPKINS & STRODE,
IRVING & ROSE.

June 16th, 1852.

Filed in office, June 17th, 1852.
(Signed) GEO. FISHER,
Secretary.

"J."

Agreement.

VICENTE PERALTA et al.
v.
UNITED STATES.

In the matter of the claim of Vicente Peralta et al., it is agreed by and between the counsel of the claimant and the Law Agent of the United States, for the purpose of the adjudication of said claim, that the distance between the northern and southern limits is from twenty-five to thirty miles, and that between the eastern and western limits is ten miles, and that it is within the ten littoral leagues, subject, however, to correction by survey, or by any other means the parties hereto may hereafter agree upon.

IRVING & ROSE,
GEO. W. COOLEY,
U. S. Law Agent.

Filed in office, June 17th, 1852.
(Signed) GEO. FISHER,
Sec'y.

"K."

Agreement.

In matter of the Peralta claim.

It is agreed between the claimants, that the southern tract of the Rancho is the land that was given to Ignacio Peralta, and extends

to a small dry creek, commanding the land of Antonio Peralta; that going north, the second part, is that of Antonio Peralta, which extends to the lands of Vicente Peralta, and a short distance south of the buildings, in the Town of Oakland, being a ravine, on the north of which there is a small house in sight of the public road. The land of Vicente Peralta extends to the land of Domingo Peralta, who owns the northern portion of the Rancho, and to the most northern limits. These dividing lines extend from the Bay to the eastern boundary of the Rancho.

JONES, TOMPKINS & STRODE,
For ANTONIO & IGNACIO PERALTA.
IRVING & ROSE.

Filed in office, June 17th, 1852.
(Signed) GEO. FISHER,
Sec'y.

"L."

Affidavit of H. W. Carpenter.

Juan Jose Castro & Victor Castro, intervening with Vicente et al.

Before the United States Land Commissioners.

Horace W. Carpenter, Attorney for Juan Jose Castro and Victor Castro, contestants in a case now pending before the United States Land Commission, in which Vicente Peralta and others are claimants to the Rancho of San Antonio, in Contra Costa County, being duly sworn, says that his clients are, he believes, unable safely to proceed to trial for want of material testimony, which he expects they will be able to prove. This deponent further says, that he wishes, amongst other witnesses, to examine Juan B. Alvarado, Joaquin Castro, and Jose Martinez; and that he has already, within the past two weeks, had the said Juan B. Alvarado in attendance for two days, under a subpœna from the Secretary of this Commission, without being able to take the testimony, by reason of the Law Agent declining to be present or to permit the testimony to be taken until after the argument in another case should be finished.

This deponent further says, that he expects to prove, by Juan B. Alvarado, that the Sobrante or land in contest was granted by him to the contestants as a remuneration for military services performed by said Victor Castro; that those services were rendered; and that, when the grant was made, it was understood to be in full satisfaction for said services; that large portions of the land in contest were never in possession of the Peraltas; and that the said Alvarado, whilst Governor of Alta California, made a decree, declaring a portion of said lands, to wit, all the Red Wood timber lands, to be Sobrante or public lands.

Deponent further says, that, by Jose Martinez, he expects to prove that one of the contestants, Victor Castro, has resided with

his family upon a portion of said land—never, apparently, in controversy for some fourteen years—and largely cultivated the same; that the greater part of the said lands in controversy have not been occupied by said Peraltas; that a portion of said lands have never been considered by the neighboring inhabitants as belonging to the Peraltas; and that Victor Castro had, at the time of the grant, a demand against his government for many years' services.

This deponent further says, that a subpœna was issued for said witness, for his appearance before this Board, last week, and that he failed to attend. Deponent further says, that, by Joaquin Castro, he expects to prove the fact of the services of the said contestant, Victor Castro. Deponent further says, that he has but recently ascertained the fact, if fact it be, that the above-named witnesses could give the testimony hereinbefore set forth.

H. W. Carpenter, being sworn, says that the facts stated in the foregoing affidavit are true, except so far as stated on expectation and belief, and that, in those parts, he believes it to be true.

H. W. CARPENTER,

Board of Land Commissioners on private land claims in California, June 17th, 1852.

The foregoing affidavit subscribed and sworn to, before me,

JAMES WILSON,
Commissioner.

Filed in office June 17th, 1852.
(Signed) GEORGE FISHER,
Secretary.

Motion to Dismiss the Petition of Intervention of Castro.

JUAN JOSE & VICTOR CASTRO, Contestants,
v.
VICENTE PERALTA et al., Claimants.

Now come before this Hon. Board for the settlement of land titles in California, said claimants by their counsel, and except to the petition of intervention filed by said contestants, and ask that the same be dismissed, because neither the said petition nor the documents accompanying it, present such a case as by law entitles him to intervene

IRVING & ROSE.

Filed in office May 18th, 1852.
(Signed) GEORGE FISHER,
Secretary.

"F" "F."

Amended Petition.

In the Land Commission to the Hon. Highland Hall, Harry J. Thornton and James Wilson, sitting as a Board to settle the private land claims of California.

Your petitioners, Juan Jose Castro and Victor Castro, state to this

Honorable Board, that previous to the day hereinafter named, your petitioner Victor had served in the army of California as Captain of Cavalry for six or seven years, and for which period of time his salary for such service and expenditures, necessarily laid out for and on account of the government, had still remained due to him by the government of Upper California, and previous to the said day hereinafter to be named, your petitioner Victor had applied to Juan B. Alvarado, then and there the Governor of Upper California, and whose duty as such, was under the laws and usages of the Mexican nation, then and there in force to settle and cause the same to be paid to your petitioner Victor, the same as the proper authority and representative of the Mexican nation, and then and there the said Victor demanded of the said Alvarado to settle and pay said account, but the said Alvarado, then and there being Governor, told your petitioner Victor that the Treasury of the Territory was empty, and he had nothing to pay him with, except he would take some of the public lands belonging to the nation, to discharge the debt. Your petitioners aver there was a large sum due to the said Victor, viz., about the sum of five thousand dollars, for the military services as aforesaid.

Your petitioners further say, that having made an agreement between themselves, they, on the 22d of April, 1841, applied to the said Juan B. Alvarado, then being Governor of Upper California, and having authority under the Mexican laws, to grant them all the vacant (Sobrante) land lying between the Ranchos San Antonio, San Pablo, Pinole, the ranchas of Valencia and Moraga, being the surplus land left between them, of all the boundaries of the said ranchos should be regulated and settled, and on the 23d of April, 1841, the said Alvarado so being Governor as aforesaid, granted the same as petitioned for, and directed your petitioners to appear before the proper authority, and with a map of the land, as soon as the boundaries of the said ranchos above-named were ascertained and regulated, and your petitioners have ever since been ready to do so; but the boundaries have not as yet been ascertained, and they propose to do so as soon as the Board shall ascertain and settle the same. Your petitioners say that the said grant was made in consideration of the said debt due to the said Victor, and that thereby the said debt to him was understood to be, and in fact was cancelled against the government, and the said Victor has never either received or demanded it since.

Your petitioners state that before the grant was made, your petitioner Victor had settled upon the land, had built and occupied a house thereon, and had cultivated fields thereon, and has resided thereon ever since, claiming and using the same exclusively as his own, and has so resided thereon it for more than fourteen years, and his said possession and claim of ownership have been all that time known to the grantees and owners of the rancho of San Antonio, and during all that period both your petitioners have pastured their stock of cattle,

horses, sheep, and hogs thereon. They also state and say, that they herewith attach, as part of this petition, their original petition and the grant of the governor, and add a copy marked "A" and a translation thereof marked "B," and rely on these and other testimony for full proof of their claim, and will show on the trial that the same is genuine and valid.

Your petitioners further say, that one Vicente Peralta and others, the sons and testamentary heirs of Don Luis Peralta, deceased, to whom the rancho San Antonio, mentioned in your petitioner's petition and grant, had been granted, have filed their petition before this Honorable Board to have the same confirmed to them, and they set up a claim that the northern boundary line of the San Antonio tract runs as far north as the little creek that runs into the Bay of San Francisco, near a hill which they call the Cerrito of San Antonio, whereas your petitioners allege and will prove that the northern line of said rancho San Antonio did not come further north than the San Antonio Creek, and that the slip or strip of land covered with oak timber, and usually called the "Encinal," on the Bay aforesaid, was also excluded out of said grant to the said Don Luis Peralta, which makes a difference of seven leagues, more or less, or takes that much or more from the land granted to your petitioners as before stated, and takes from your petitioners the farm-house and fields, where the said Victor has resided, possessed, and cultivated for over fourteen years, with the full knowledge of the said Luis during his lifetime, and also his said sons and heirs, and by which your petitioners claim by prescription. Therefore, your petitioners pray that they may be allowed, as they have formerly been allowed, to intervene in the case of said Vicente Peralta and others, and to file this as an amended petition for that purpose and upon of all hearing of the same, that the land so claimed by them and owned by these petitioners may be decreed to your petitioners, and that they may be allowed to produce evidences and proofs to establish the facts alleged herein, and whatever else may be just and proper as in duty bound they will ever pray, &c.

H. W. CARPENTER,
JOHN WILSON,
Attorneys for Petitioners.

Filed in office May 26th, 1852.
(Signed) GEO. FISHER,
Secretary.

"S."

Agreement.

Before the Board of the United States Land Commissioners.

VICENTE PERALTA et al.
v.
UNITED STATES.

It is hereby agreed between the United States and the claimants

herein, that all orders, regulations, instructions, laws, decrees, and decisions be admitted as proved so far as they are applicable to the above claim in its decision by this Board, and its adjudication before the United States Courts, in case it should go into said Courts by appeal.

San Francisco, July 21, 1852.

GEO. W. COOLEY,
U. S. Law Agent.
ROBERT ROSE,
Counsel for Claimants.

Filed in office July 21, 1852.
(Signed) GEO. FISHER,
Secretary.

Order of Survey.

Office of the Board of Commissioners of California Land Claims.
San Francisco, August 14th, 1852.

In the case No. 4, Vicente Peralta et al., for the Rancho de San Antonio, on motion of the counsel for the claimants the following order was granted, to wit:

For the purpose of ascertaining with precision and certainty the limits and boundaries of the land claimed by Vicente Peralta and others, in their petition No. 4, pending before the Commissioners, it is on motion of the counsel for the claimants ordered, that an initiatory survey under the superintendence of the United States Surveyor-General of California be made of the land known by the name of the Rancho of de San Antonio, situated on the Bay of San Francisco, bounded on the southeast by the Arroyo or Creek of San Leandro, on the east by the Sierra or Coast Range, on the northwest by the arroyito of the Serrito of San Antonio, and on the west by the said Bay of San Francisco, as claimed to be described in the title papers of said rancho. Ascertaining the extent, quantity, and boundaries of the land as claimed by the petitioners, and also the extent, quantity, and boundaries of the tract for which the certifying document of Governor Sola was issued to Luis Peralta, in October, 1822, and also ascertaining the localition of the little hill (lomita) mentioned in the petition of Peralta to Governor Sola in June, 1821, if any be found other than the hills to which judicial possession was afterwards given, and of the several creeks or other natural and artificial objects mentioned in the papers in the case relating to the title and possession of the land, and marking such locations with those of any other objects deemed important by the petitioners or the Surveyor-General on the plot of survey.

But this order is not in any manner to determine as against the United States either the question of title, the construction of the grant, the location, boundaries, or extent of the land to which the claimants may be entitled.

Filed in office August 14th, 1852.
(Signed) GEO. FISHER,
Secretary.

Agreement.

It is agreed that the testimony of Mariano Castro, taken in the case of Ignacio Peralta, No. 274, and Antonio Maria Peralta, No. 273, be used in the claim of Vicente Peralta et al., No. 4.

(Signed) R. GREENHOW,
Asst. Law Agent U. S.

(Signed) ROSE & IRVING,
For Claimants.

San Francisco, January 11, 1853.
(Signed) GEORGE FISHER,
Secretary.

Copy of Order.

In case No. 4, Vicente Peralta et al., for the rancho of San Antonio, on motion of the counsel for Ignacio Peralta and Antonio Peralta, ordered that their names be stricken out from the petition No. 4, and their claim rest on their separate petitions, Nos. 273 and 274, on the docket of this Board, for portions of the rancho of San Antonio, and that this be done without prejudice, and that the testimony heretofore taken in No. 4 shall, as far as applicable, apply to all the said petitions.

I, George Fisher, Secretary of the Board of United States Commissioners to ascertain and settle the private land claims in the State of California, hereby certify that the foregoing is a full, true, and correct copy of an order, in case No. 4, Vicente Peralta et al., for the rancho of San Antonio, Vol. 2, p. 105.

Witness my hand, this 2d day of August, 1852.
GEORGE FISHER,
Secretary.

Filed in office August 2, 1853.
(Signed) GEORGE FISHER,
Secretary.

Affidavit of Ignacio Peralta.

Yo, Ignacio Peralta, vecino de San Leandro, en el Contado de la Contra Costa, Estado de California, para los fines que conviniere, digo: que habiendoseme nombrado executor y administrador del ultimo testamento de mi difunto Senor Padre, Don Luis Peralta, y depositorio de todos sus documentos papeles y titulos que me fueron entregados luegue despues de su muerte. Declaro del modo mas solemne que entre dichos documentos y papeles no se encontraba ningun titulo o documento de ninguna naturaleza, relativo al rancho de San Antonio firmado por el Gobernador Micheltoreno—y que jamas ha llegado a mi noticia que en ningun tiempo ha habido tal documento o titulo (firmado por Micheltorena) en poder de mi dicho

difunto Padre, ni en el de ninguno de mis hermanos—y en caso de que en algun tiempo existiere tal documento o titulo en poder de mi dicho Padre—Creo firmemente que en el dia no existe.

Declaro a mas que los unicos documentos o titulos relativos a dicho rancho de San Antonio que he visto o conocido en poder de mi padre—son—un certificado o titulo, firmado por el Gobernador Sola el diez y ocho de Octubre (de 1822) del ano de mil ocho cientos veinte y dos, y un titulo dado de dicho rancho firmado por el Gobernador Arguello en el ano de mil ocho cientos veinte y tres (1823).

Es todo lo que se en la materia.

YGNO. PERALTA.

Contra Costa, Septiembre veinte, de 1822.

Personally appeared before me, Edson Adams, Justice of the Peace, in and for the county of Contra Costa and township of Contra Costa, on this twenty-first day of September, A. D. 1852, Ignacio Peralta, to me, to be the person who subscribed the foregoing affidavit, and being solemnly sworn, did depose and say that the above affidavit was true, to the best of his knowledge and belief, and that he subscribed the same freely and voluntarily, for the purposes therein mentioned.

Before me:

EDSON ADAMS,
Justice of the Peace.

Admitted as evidence in case No. 4.

R. GREENHOW,
U. S. Law Agent.

Filed in office January 28, 1853.

GEORGE FISHER,
Secretary.

(For map, see original, page 127.)

Field Notes of Survey.

Field Notes of a Survey of Rancho de San Antonio, claimed by Vicente Peralta et al., made by order of United States Land Commission, under date of August 14th, 1852, and under the Supervision of Samuel D. King, Esq., United States Surveyor-General for the State of California, by Alexy W. Von Schmidt, United States Deputy Surveyor.

Commenced at the mouth of the San Leandro Creek (on the north side of said creek). By observation found the variation of the needle to be 15½° east.

House of Mr. Chipman bears N. 23¾° E.

House of Mons. Peapeau bears N. 4° W.

House of Mr. Miller N. 12° W.

On the coast a small hill found of shells bears N. 27¼° W.

Sig. Antonio and Ignacio Peralta pointed out the starting-point, from which place I started to run the coast down.

Bearing from this point to furthest north point of land, making out into the bay on the opposite side of the creek, bears S. 71° W.

Thence N. 40½° W. On the coast 13 chains, planted stake.
Mr. Chipman's house bears N. 45½° E.
Mons. Peapau's house bears N. 14° E.
Mr. Miller's house bears N. ½° E.
Small shell hill bears N. 16¾° W.
Thence N. 72° W. On the beach 15 chains. Point of land making out in opposite side of creek bears S. 49° W.
Thence N. 58½° W. On the beach 14 chains; at this point a little sandy point makes out into the bay.
Thence N. 59¾° W. On the coast 13 chains, 60 links.
Thence N. 26½° W. Run for an oak tree. To tree 16 chains. Marked tree 3 chops both sides.
From this point back to point of beginning land salt marsh; from this point on good land, with fine live oak timber, coast rather cold.
Thence N. 34½° W. Run for a large white oak tree. To tree 22 chains, 25 chains, marked tree 3 chops, both sides land and timber as the last.
Thence N. 51° W. Run for a very large oak tree. To tree 19 chains, 75 chains. Soil and timber same as last, marked tree 2 notches both sides.
Thence N. 60° W. Run for a small oak tree. To tree 5 chains, 75 chains, marked tree 3 chops both sides.
Thence N. 77½° W. Run for a white oak tree, 10 chains, passed house of Mr. Hubbard and Einnedist about 8 chains to the right. To tree 28 chains, ground first rate, with fine live oak timber, marked tree 3 notches both sides.
Thence N. 68° W. Run for an oak tree. To tree 7 chains, 50 chains. Marked tree, 3 chops both sides.
Thence N. 54° W. Run for an oak tree. To tree three chains; marked tree 3 chops both sides.
Thence N. 62° W. Run for a very large oak tree, stands on the very edge of bank. To tree 20 chains 40 links; marked tree, 3 chops both sides.
Thence N. 67¾° W. Run for a tree on beach. To tree 35 chains, 75 chains; marked tree 3 chops both sides.
Thence N. 84¾° W. Run for a round-top oak tree. To tree 19 chains, 30 chains; marked tree 3 chops both sides, soil good, with good live oak timber.
Thence N. 83¼ W. Run for an oak tree. To tree 15 chains, 15 chains; marked tree 3 chops both sides.
Thence N. 63½° W. Run for an oak tree. To tree 10 chains; marked tree, 3 chops both sides. Soil rather sandy, timber live oak, and rather scrubby.
Thence N. 58½° W. Run for a large oak tree, stands near a point. To tree 29 chains; marked tree, 3 chops, both sides; shore rather bold, and for the last two stations sandstone formation; stone soft.

Thence N. 44¼° W. Run for an oak tree. To tree 5 chains; marked tree, 3 chops both sides. Timber scrubby; land sandy, and passed all timber on this side of San Antonio Creek.

Thence N. 23½° W. On the beach 18 chains. To low swamp land, salt marsh 30 chains, 65 chains planted stake. Pavilion hotel in town of Oakland bears N. 44¼° E. House of Mr. Hardy bears N. 23½° E.

Thence N. 18° W. On the coast 17 chains, 25 chains, planted stake on point, being the N. W. point this side San Antonio Creek. Pavilion Hotel in Town of Oakland, bears N. 57° E. Mr. Hardy's house bears N. 29½° E.

Thence N. 24¾° E. On the coast 10 chains; 15 chains, planted stake.

Thence N. 53¼° east. On the coast, 10 chains.

Thence N. 10° E. To point at entrance of San Antonio Creek, 3 chains, planted stake. The land on this side of San Antonio is low and marshy for the distance of a mile back from the creek. This portion of land is worthless for any purpose of farming or grazing purposes. This San Antonio Creek is a large creek on which the town of Oakland is located.

Thence N. 28¾° W. Across San Antonio Creek 27 chains, 30 links. To point on opposite side, planted a stake near a little slough, making out of Salt Marsh. Pavilion Hotel bears north 73¼° E.; a fisherman's house bears N. 71¾° W., dist. 2 chains, 34 links.

Thence N. 88° W. On the coast 12 chains, 34 links, planted stake. Flag on opposite side of San Antonio Creek bears S. 46½° E. Land low, back sandy salt marsh; back from the beach for the distance of about half a mile, a live oak bush bears N. 4½° W., distant 2 chains, 90 links.

Thence N. 62½° W. On the coast, 2 chains.

Thence N. 23½° W. On the coast to some little sand hills, 18 chains, 18 links.

Thence N. 44° W. On the coast, 6 chains, 60 links; little sand hills continue up to this station.

Thence S. 86¼° W. On the coast, 6 chains, 60 links.

Thence N. 31½° W. On the coast, to a small slough, 13 chains, 60 links; slough, 1 chain wide; 21 chains. Come over to high land and left salt marsh. 34 chains, 15 links, planted stake; soil sandy, with some good grass.

Thence N. 21¾° W. On the coast, 9 chains, 65 links, planted stake at foot of an old grove; a round pond, dry at present, bears S. 62½° E., dist. 5 chains, 50 links; soil same as last.

Thence N. 4° W. Run for a small live oak tree near the edge of the bank. To tree, 13 chains, 20 links; timber, live oak; soil good, with good grass; marked tree, 3 chops, both sides.

Thence N. 11¾° E. Run for a small bushy oak tree. To tree, 4 chains, 80 links.

Thence N. 21½° E. Run for a live oak tree. To tree, 8 chains, 70 links; bank high; marked tree, 3 chops, both sides. Land good; timber, live oak.

Thence N. 55¼° E. Run for a tree. To tree, 9 chains, 60 links; marked tree, 3 chops, both sides.

Thence N. 48¾° E. Run for a live oak tree. To tree, 12 chains, 30 links; marked tree, 3 chops, both sides; stands near a small house.

Thence N. 63¾° E. Run for a large live oak tree. To tree, 15 chains, 50 links; marked tree, 3 notches, both sides. This is the tree forming the best of timber. Runs off due east.

Thence N. 37½° E. On the coast, 12 chains, 50 links. To salt marsh, and planted stakes.

Thence N. 21¾° E. On the coast, to a little creek, 10 chains, 90 links; creek 30 links wide; 16 chains planted stake. Some small sand hills; land back salt marsh.

Thence N. 41¾° E. On the coast. To a little slough, 5 chains, 25 links; 15 links wide; 20 chains, 65 links, wide. Land all salt marsh, or cut up by sloughs. Vicente Peralta's house bears N. 52° E.

Thence N. 15¾° E. On the coast. To creek, 8 chains, 25 links; creek 2 chains wide; 11 chains, 20 links, planted stake.

Thence N. 4½° E. On the beach, 18 chains.

Thence N. ½° E. On the coast, 27 chains; house of Vicente Peralta bears N. 67¾° E.; salt marsh for about 25 chains in the same direction; then the ground rises gradually up to Vicente Peralta's house, and on the foot of the mountains. Land first rate.

Thence N. 3° W. Run on the coast in the direction of a slaughter house, 14 chains. Come to Willow Grove, 38 chains; passed Willow Grove. To house 39 chains. This place is called Temescal; a store-house bears S. 51¼° E., dist. 5 chains, 40 links. Two other houses in the place; land back first rate, mostly under cultivation.

Thence N. 8½° W. On the coast in the direction of a house 50 chains, planted stake. Fine fields of land under cultivation. Soil first rate up to the foot of the mountains.

Thence N. 15° W. On the beach to fence, 5 chains. To deep ravine, 27 chains. A house, a few rods to the right; ravine, 1 chain 15 links wide. Three small oak trees stand on the north side of ravine; another deep ravine and spring of fine water, 61 chains 50 links. Ravine 1 chain wide. 69 chains another fine large spring of first rate water; a house just above the spring; planted stake; bank bold; soil first rate; beach sandy.

Thence N. 20° W. Run on the beach for a very prominent point of this same land, making out 26 chains 50 links, to a little ravine 46 chains; planted stake; land first rate, with a bold shore and fine sand beach. Domingo Peralta's house bears N. 44¼° E. A conical hill bears N. 13° E. This hill is of a shell formation, and about

20 feet in height. There is a little slough making out just below the hill and the beach, with a little willow grove of a young growth in the direction of Domingo Peralta's house.

Thence N. 30° W. on the coast 7 chains. Little shell hill bears N. 67½° E.

Thence N. 26½° W. to a fence 30 chains 7 links. Planted stake. A large oak tree bears S. 61° E., distance 2 chains; 18 inches diameter. The land for a short distance back is salt marsh, with slough running through it in various directions. The land back from the salt marsh is of the first quality to the commencement of the hills.

Thence N. 27½° W. on the coast to a stake marked R. 4, W. T. 13, 49 chains, 30 links. Ridge of small sand hills formed by the sea and winds. Land back for some 12 chains salt marsh. Domingo Peralta's house bears N. 87° E.

Thence N. 37° W. run for a point of a hill with some rocks on the east and west side of said hill. To hill, 15 chains. 17 chains 50 links planted stake. The top of first hill bears N. 46¾° E., distance 4 chains. Second hill bears N. 1° W., distance 10 chains. These are the first hills that I came to in coming down the coast of any size.

Thence N. 23° W. on the edge of the hill and bluff bank of the coast, 4 chains 25 links.

Thence N. 46¾° W. to point of hill, 7 chains. Nose bold and rocky.

Thence N. 12½° E. on coast, 3 chains, 50 links.

Thence N. 42½° W. run for the most northerly point of land making out into the bay, 4 chains. Planted stake; point rocky.

Thence N. 81¼° E. run for a large buckeye tree; stands in a little cluster of oaks. To tree, 8 chains; marked tree 3 notches both sides; tree stands near a house.

Thence N. 68¾° E. near the beach to house, 90 links, 5 chains; planted stake.

Thence N. 82½° E. ran for a house, 3 chains. Passed off a hill and on salt marsh on beach to slough, 8 chains, 50 links; slough 1 chain, 30 links wide. Course of slough north and south to house, 9 chains, 50 links, and across salt marsh and on good ground. S. E. mound bears N. 34½° E. Northern hill of San Antonio bears N. 20¾° E.

Remarks.—This hill has the appearance of but one hill in coming down the coast, but there are two separate hills, although to the main base is but one. My opinion is that these are the hills called for by the papers of Lewis Peralta, and petitioned for by his son Vicente Peralta.

In fact these are the only hills answering the description.

Thence N. 10½° E. on the coast, 13 chains. N. E. mound, or Serrito San Antonio, bear N. 51½° E.

Thence N. and W. on the coast, 13 chains. Northern mound of Serrito San Antonio bears N. 40¾° E.

Thence N. 15¾° W. on the coast, 11 chains. Planted stake. A house bears N. 9½° E. A tree on northern side of Serrito San Antonio bears N. 28½° E.

Thence N. 20¼° W. on the coast, 21 chains, 60 links. Planted large stake on western point of high land, making this the northwest corner of claim. Cluster of oak trees on northern point or side of Serrito San Antonio bears N. 81° E. Within 6 links from this stake towards the bay there are some pointed stones projecting out of the ground. A large stone on ridge of mountain bears N. 2° E. A sugar-loaf mound bears N. 44¾° W. Point of Angel Island bears S. 62¾° W. Western point of Goat Island bears S. 29¾° W.

Thence N. 46½° E. To top of hill 10 chains. An old Indian rancho planted stake, made a mound, and dug food ditches, N. E., S. W. The top of the hill is covered with shells.

Thence N. 75° E. Run for an oak tree, in the direction of Mr. Victor Castro's house, and up the creek called De San Antonio to a little house belonging to Mr. Gray, 3 chains; stands a little to the right of the line; to foot of hill 6 chains, and salt marsh. To tree on part land, 16 chains 40 links; marked tree, 3 notches both sides.

Thence N. 88½° E. To a fence and field 1 chain 54 links; across field, 5 chains, and little creek 6 chains; planted stake. House of Mr. Victor Castro bears N. 74½° E.; a little grove of willows just above this on the creek.

Thence N. 80¾° E. Run for a post on bank of creek. To post creek and fence, 11 chains 50 links. Mr. Victor Castro's house bears N. 9½° W.

Thence N. 88¾° E. Run in the direction of a conical rock, stands at the foot of the hill, 20 chains, 60 links, to a fence, and with another field, 37 chains, planted stake on east bank of little creek.

Thence S. 70° E. Run for a little willow tree, stands in middle of creek. To tree, 9 chains, marked tree, 3 chops, both sides.

Thence S. 88¾° E. Run for a little buckeye tree in creek. To tree 8 chains; marked tree, 3 chops, both sides. A large pyramide to creek, bears N. 79½° E., and is of this shape, which rock, I think, is the one called for by the claims, and has a very remarkable appearance from this station.

Thence N. 53½° E. Run for a tree in creek. To tree, 11 chains, 15 links; marked tree, 3 chops, both sides, stands on other side of creek.

Thence S. 35½° E. Run for a little tree in creek; to tree, 2 chains, 40 links; marked tree, 3 notches, both sides. The large pyramidical rock facing to the north bears S. 64½° E., distance 5 chains, 70 links. This rock is about 60 feet in height, and has a remarkable curious shape for a stone. In fact, it could not have been shaped by hand better than nature has made it to represent a monument. This is the only stone in this vicinity that looks like a monument.

Thence N. 78½° E. Run for an oak tree. To tree, 8 chains, 50 links; marked tree, 3 notches, both sides.

Thence N. 40° E. Run for an oak tree. To a little creek, 3 chains, 50 links; to tree, 6 chains, 50 links; marked tree, three notches both sides; some fine oak timber on side of mountain, some grass, some scattering rocks, &c.

Thence N. 60½° E. Run for a black oak tree. To tree 3 chains, 50 links; marked tree, 3 notches both sides.

Thence S. 52¾° E. Run for an oak tree. To tree, 2 chains, 50 links; on side of mountain, marked tree, three chops both sides.

Thence N. 85° E. To an oak tree, 3 chains; marked tree, three notches both sides.

Thence N. 71½° E. To tree, 2 chains; marked tree, 2 notches both sides.

Thence S. 80½° E. To tree, 5 chains; marked tree, 3 notches both sides.

Thence N. 53½° E. 10 chains, 60 links; planted stake.

Thence N. 11½° E. Down to the creek, 2 chains. To a little tree, 6 chains; a little water running in creek.

Thence N. 23° W. Run for a tree. To tree, 5 chains; marked tree, X and 2 notches both sides.

Thence N. 73° E. Run for a little pointed hill. To a little oak tree on hill, 9 chains, 75 links; marked tree, 2 notches both sides.

Thence S. 82½° E. Run for a tree; to tree, 5 chains; marked tree, 6 chops both sides.

Thence N. 39¾° E. Run for a large stone. To stone 13 chains; to tree or rock, 14 chains; marked a little tree on top of rock, 3 notches both sides. The top of the rock covered with bushes about 20 feet in height. The little creek heads near this large stone.

Thence N. 86½° E. Run for a large stone covered with little bushes to eastern point of rock, 4 chains.

Thence N. 78¾° E. Run for a little pile of stone. To stone 9 chains; this rock stands on the eastern side of the first high range of hills of mountains.

Thence N. 72¼° E. Run for a high peak in the main ridge, and as claimed by Vicente Peralta et al., pointed out by Domingo Peralta in person. Run down a ravine to a little creek, coming down from the right 19 chains; some little willow bushes on bank of little creek above this and large trees below. To same creek 26 chains; to large creek, 31 chains; 15 links wide; fine watercourse N. and S. runs north; willows and large oak trees growing on its banks; a fine little farm just above this, surrounded by high mountains, with a fine grove of timber across creek; commence ascending main ridge 75 chains; little creek makes down the mountain to the southward to top of hill; round top, soil poor, or rather only fit for grazing cattle, made this N. 6. Corner of claim, top of ridge, bears N. 83° W. Southern point of Angel Island bears S. 40½° W. A tree on a high hill, top covered with trees, on the north side of said hill, bears N. 24½° E. Highest point of Mount Diablos bears S. 84° E.

Thence S. 27¼° E. On top of main ridge, run for a high hill, 50 chains; made a stone monument; southern point of Angel Island bears S. 70¼° W. Southern point of Goat Island bears south 44° W.

Thence S. 43½° E. On main ridge run for a high peak with some brush on north side. To peak 66 chains, a high peak on spurr bears south.

Thence S. 45° E. To rocky peak 5 chains, 50 links.

Thence S. 81° E. Run for a peak on main ridge. To peak 17 chains, 80 links; a high peak on spurr bears S. 17½° W. From the top of this peak on spurr, to a pile of stones on the south side of the Serritos San Antonio, bearing from top of peak N. 84° W., is disputed by Mr. Victor Castro, who claims this line as his southern boundary.

Thence S. 32° E. Run for the highest peak in view on this ridge, 60 chains; made a monument out of large stones; a high peak on spurr bears S. 78½° W. Mount Diablos bears S. 87½° E.

Thence south, to a hill, with a lot of stones on top of said hill, having a few little bushes growing among the stones, 35 chains.

Thence S. 18° E. Run for a sharp ridge of a hill; to hill, 18 chains.

Thence S. 37¼° E. Run for a rock peak; to peak 8 chains, 50 links. Top of peak covered with large stone. Country very rough.

Thence S. 54¼° E. To top of a round-top hill, 12 chains.

Thence S. 45°. To top of sugar-loaf hill, 7 chains.

Thence S. 24½° W. Run for a high ridge on an adjoining spur of the main ridge. To a deep ravine, 14 chains; to stone, 36 chains; made a stone monument.

Thence S. 41° E. On the ridge run for a high peak. To peak 57 chains, made a stone monument.

Thence S. 28½° E. Run for a sugar-loaf mound on this ridge, to mound 35 chains; made a stone monument.

Started to run southern line of Luis Peralta's claim of 1822, as ordered by the U. S. Land Commission.

The creek down in the direction of the coast; southern point of Angel Island bears due west. Southern point of Goat Island bears S. 69° W.

Thence S. 32° W. Run down a spur between two creeks to hill, 35 chains; a little house on creek bears S. 43½° W., near some fine bushes and trees.

Thence S. 89¾° W. Run for a hill on spur; to breadth of hill, 38 chains; little house bears south.

Thence N. 85½° W. Run for a large lone tree; to little creek 23 chains; to tree 35 chains, marked tree, 3 notches both sides.

Thence N. 70° W. On right bank of creek down to tree, 17 chains, 40 links; marked tree, 3 notches both sides; some fair timber, mostly oak; soil not good, and very hilly.

Thence N. 61¼° E. On right bank, down, run for two large oak

trees, growing out of the same body, for within two feet of the ground; to tree, 12 chains; marked each of the trees 2 notches, both sides.

Thence N. 55¼° W. Run for an oak tree; to tree 4 chains 90 links; marked tree, 2 notches both sides.

Thence N. 73° W. Run for a large oak tree near the bank of creek. To tree 6 chains, 70 links; marked tree 3 notches; a large oak tree bears N. 30° E. distance 35 links; 34 inches diameter.

Thence S. 60½° W. Run for a large oak tree on left bank of creek. To creek 1 chain, 34 links; 15 links wide. To tree 4 chains, 20 links; marked tree one chop both sides.

Thence S. 68° W. Run for a large oak tree; stands near a house; to creek 1 chain; 15 links wide. To tree 11 chains, 28 links; marked tree 3 notches both sides; very large oak tree; 75 inches diameter.

Thence S. 63½° W. Run for a tree standing on right bank of creek, 26 chains, 60 links; marked tree 3 chops both sides.

Thence S. 45¼° W. Run for a tree. To tree 4 chains, 15 links; marked tree 3 notches both sides.

Thence S. 18¾° W. Run for a large oak tree; stands near house on right bank of creek. To tree 12 chains, 10 links; marked tree two notches both sides.

Thence S. 86¼° W. To a tree 6 chains; marked tree two notches both sides.

Thence S. 38° W. Run for an oak tree. To tree 6 chains, 90 links; marked tree three chops both sides. Thence north 86° W. Run for a large oak tree; to a house 4 chains, 60 links; to tree 9 chains, 15 links; marked tree 2 notches both sides.

Thence S. 64½° W. Run for an oak tree on opposite side of creek to north prong of creek and forks, 4 chains, 25 links wide. To main creek 7 chains, 60 links wide; to tree 9 chains, 30 links; marked tree 3 notches both sides.

Thence S. 31¼° W. On left bank down. Run for a large tree; to tree 10 chains; marked tree 3 notches both sides.

Thence S. 32½° W. Run for an oak tree. To tree 11 chains, 50 links; marked tree 3 notches both sides. Sig. Vicente Peralta's house bears N. 86½° W.; distance 9 chains; land first rate.

Thence S. 29° W. On the left bank of creek down run for an oak tree; stands just on bank. To a fence 3 chains. To tree 3 chains 75 links; marked tree 2 notches both sides.

Thence S. 41° W. Run for a tree. To Corral 8 chains. To tree 9 chains 33 links; marked tree 3 notches both sides.

Thence S. 45½° W. To a tree 1 chain, 50 links; marked tree 2 chops both sides.

Thence S. 58½° W. Run for a large oak tree. To tree 8 chains, 30 links; marked tree 3 notches both sides. A little house bears S. 36° E., distance 23 links. Another house bears N. 38½° W. across creek; distance 2 chains, 70 links.

Thence S. 55½° W. Run for a tall tree. To a house 19 chains.

To tree 19 chains, 50 links. Tree on right hand side of creek (a willow tree) marked tree 3 notches both sides. A frame house bears N. 38° W.

Thence N. 75¼° W. Run for an oak tree on right bank. To a fence 1 chain 40 links. To tree 18 chains, 50 links; marked tree 3 notches both sides. Frame house bears N. 75° E.

Thence S. 80½° W. Run for a willow tree on right bank of creek. To tree 15 chains 80 links; marked tree 2 notches both sides; land first rate.

Thence N. 63° W. Run for a willow tree on right bank of creek. To fence 12 chains, and add field. To tree 14 chains, 40 links; marked tree 3 notches both sides.

Thence N. 71° W. Run for a buckeye tree on the left bank of creek. To creek 4 chains; across creek, 15 links. To tree 4 chains, 75 links; marked tree both sides 3 notches.

Thence S. 79½° W. Run for a willow tree. To tree 10 chains, 80 links.

Thence S. 77¾° W. Run for a willow tree. To tree 12 chains; creeks form a little swamp with a large grove of willow trees in swamp. House bears S. 12° E., distance 3 chains.

Thence N. 66¾° W. Run for a lone willow bushes. To bushes 6 chains, 80 links; these are the last willows until we make the large grove of willows on the coast. I found it difficult to follow the creek on account of its passing over the surface of the ground and making but a small bed, there being no water running at this season of the year this low down, I therefore run for the centre of the large willow grove on the coast.

Thence S. 66° W. Run for a willow tree, bed of creek to the right. To fence, 8 chains, and road leading from Oakland, north. To creek, 9 chains; across creek, 9 chains, 50 links; and to fence, on right bank of creek, down, 26 chains, 80 links, to creek 10 links wide. To tree, 27 chains, 36 links; marked tree (large willow), 4 notches, both sides. A house bears N. 52½° W., distance 2 chains, 70 links. To willow grove, and entrance of creek into grove, forming a swamp, bears west 3 chains.

Thence N. 68¼° W. Run for a little cedar tree, stands on top of a little hill, 4 chains; passed over a little hill formed of shells. To foot of hill, 8 chains, 50 links. To tree, 9 chains, 50 links; marked tree, 3 notches both sides. On this hill there has been an old Indian Rancho, and has been formed by the Indians out of the great quantities of muscles they have consumed.

Thence S. 70¾° W. In the direction of the western point of Goat Island, and for the coast. To foot of hill, 2 chains, and enter swamps with large willow trees. To coast and intersect coast line, 5 chains, 50 links. Southern point of Red Rock bears N. 49¾° W. Western point of Goat Island bears S. 76½° W. To slaughter house N. 3° W. 10 chains, 60 links.

Commenced at point on back line, where I left off to run down to the coast.

Thence S. 70° E. Run for a hill on main ridge. To hill, 23 chains; a little creek heads just at the foot of this hill; head of creek bears south 4 chains, runs south; a grove of trees bears S. 51½° W., near head of a fork of San Antonio Creek, a loan tree bears S. 57½ W.

Thence S. 45½° E. Run for a high hill on main ridge. To top of hill, 37 chains; a large creek heads just below, course S. W. Country being hilly, land good only for grazing purposes.

Thence S. 46° E. Run down on dividing ridge 23 chains.

Thence South. Run up to a high ridge, 4 chains to ravine, thence up hill. To road, 11 chains, leading from Red Woods down to Embarcadero. To top of hill, 12 chains; grove of timber bears S. 64¼° W.

Thence S. 63½° E. Run for the top of a hill covered with bushes. To top of hill, 6 chains, 50 links.

Thence S. 92¾° E. Run for hill adjoining centre of road, 7 chains, 50 links.

Thence S. 43° E. Run for a hill covered with little bushes. To hill, 14 chains, 25 links.

Thence S. 66½° E. Run for the next hill on main ridge. To hill, 7 chains, 75 links.

Thence S. 81° E. Run for the adjoining hill. To hill, 9 chains.

Thence S. 42° E. On main ridge, 17 chains. Thence S. 41½° W. Run for a high ridge, 11 chains.

Thence S. 13° W. Run for a high hill on main ridge, 34 chains. Piled up a lot of stones, making a small monument.

Thence S. 20¼ E. Run for a high ridge just this side of Red Woods, pass head waters of San Leandro Creek, 31 chains. 45 chains, 50 links, to a large pile of rock. Creek San Leandro runs nearly east.

Thence S. 68° E. Run for a large red-wood tree. To tree, 22 chains. Marked tree 3 notches both sides. Trees very large, with thick undergrowth, &c.

Thence N. 87½° E. Run for a red-wood tree. To tree, 7 chains. Marked tree 3 notches both sides.

Thence S. 86° E. Run for an old stump, 14 chains.

Thence S. 31½° W. Run for a large red-wood tree. To tree, 4 chains. Marked tree, 3 notches both sides.

Thence S. 25¾° E. Run down on ridge for a tall red-wood tree. To tree, 23 chains, blazed tree.

Thence S. 30° E. Run for a large red-wood tree. To tree, 9 chains. Marked tree, 2 notches both sides.

Thence S. 8¾° W. Run for a red-wood tree. To tree, 12 chains, 50 links. Marked tree, 3 notches both sides.

Thence S. 44½° E. Run for two trees, standing together. The

left hand one of the two, 22 chains, to a deep ravine and creek; runs east, 15 links wide. To tree, 72 chains. Marked tree, 3 notches both sides.

Thence S. 41° E. Run for a high hill to a little creek 19 chains, 5 links wide. To hill, 56 chains, to a pile of stone.

Thence S. 70¼° E. Run for a large rock to top of a high rock, 46 chains.

Thence S. 32 E. Run for a large rock on a hill, top of rock just in sight, 34 chains.

Thence S. 17½ W. Run for a stone adjoining ridge, little ravine 12 chains, to stone 15 chains.

Thence S. 54¼ E. Run for a sugar-loaf mount with same large stone, on south side of hill, is to eastern edge of hill 49 chains.

Thence S. 25¼ E. Run for a high mount on main ridge. Top of hill 50 chains,

Thence S. 21½ E. Run for the next high hill over main ridge, to top of hill 27 chains.

Thence S. 27¾° E. Run down main ridge for top of a hill; to top of hill 80 chains; land very hilly, with fine grass, &c.

Thence run for a high S. 6¾° E., to hill 34 chains.

Thence S. 32½ W. Run for a high ridge on right bank of San Leandro Creek, down hill to hill top, 44 chains.

Thence S. 72½ W. To a very high round-top hill; to top 7 chains. San Leandro Creek bears S. E., up.

Thence S. 28 W. Run for a high hill to a large pile of rocks 30 chains; piled up a lot of stones on top of large rock; this forms S. E. corner of claim.

Thence N. 73¾ W. Run for a large oak tree, stand on a small ridge on the opposite side of San Leandro Creek, down hill 10 chains. To creek 22 chains, creek 2 chains wide. To hill 34 chains; marked tree 3 notches both sides.

Thence N. 65 W. Run for a large oak tree on the opposite side of creek; to bank of creek 14 chains, to bed of creek 17 chains; creek one chain wide; to tree 22 chains. Marked tree 3 notches both sides; tree stands on edge of creek.

Thence S. 48¾ W. Down right bank of creek, run for an oak tree; to tree 7 chains, 40 links; marked tree 3 notches both sides.

Thence N. 69¾ W. Run for a large oak tree on right bank of creek and on the plains, 11 chains, 60 links to tree. Marked tree 3 notches both sides.

Thence N. 76 W. Down from the hill altogether on bank 3 chains.

Thence S. 85½ W. Run on right bank of creek 23 chains, to a fence 29 chains, 50 links; planted stake; land first rate, with fine fields on both sides of creek.

Thence S. 9 W. Run for a large tree 12 chains; marked tree 3 notches both sides.

Thence S. 52° W. On right bank down 6 chains.

Thence N. 88° W. Down on right bank 27 chains.

Thence S. 37½° W. Down on right bank 20 chains, Sig. Estudillo's house bears S. 34½° W.

Thence N. 78 W. Down on bank of creek, run for a large willow tree; to tree 53 chains, 20 links; marked tree 3 notches both sides; fine land both sides, Sr. Estudillo's house bears S. 61° E.

Thence S. 66 W. Run for a little asto tree; to tree 17 chains; marked tree 3 notches both sides.

Thence S. 31¾ W. Run for a large tree. To tree 8 chains; marked tree 3 notches both sides.

Thence N. 81½ W. Run for a willow tree on right bank; down, tree stands back from bank of creek; to tree 16 chains; 60 links; tree 3 notches both sides.

Sigr. Ignacio Peralta's house bears N. 62 E., distant 4 chains; a house of one of his sons stands a little to the N. E.; a little house bears N. 18 E., distant 1 chain.

Thence N. 85° W. Run for a cluster of buckeye trees, Francisco Peralta's house 6 chains; to tree 20 chains, 50 links; marked tree 3 notches both sides; soil first-rate, with some timber in and on bank of creek.

Thence N. 57¾° W. Run for a tall cotton-wood tree, on right bank of creek; down to tree 24 chains, 85 links; marked tree 3 notches both sides; a little house occupied by Chilenos on opposite side of creek.

Thence S. 84 W. On bank of creek to fence and outer fields, 14 chains 80 links, 15 chains; planted stake.

Thence S. 38¼ W. On right bank of creek down 6 chains; planted stake, fine land both sides of creek.

Thence S. 74½ W. Run for a willow bush on right bank of creek, near Embarcadero. To tree 10 chains; marked tree 3 notches both sides.

Thence S. 57 W. Run down right bank to creek 6 chains, out of field; salt water in creek.

Thence N. 42½ W. On right bank of creek, 4 chains, 40 links; planted stake; marked stake, 3 notches both sides.

Thence S. 32 W. To creek 10 chains, planted stake; a slaughter house on opposite side of creek, bears due west. A large o post on opposite side of creek, bears S. 63½° E. Sr. Estudillo's house bears S. 87 E.; a grove of willows bears N. 7 E.

Thence N. 33½° W. Run for a large post on bank of creek, to post 10 chains; marked post 3 notches on south side. This has been a slaughter house at some time past.

Thence N. 13½ E. Run for a willow grove off on the edge of marsh and fort land; left creek to the left on account of the impracticability of meandering it down. This portion is all salt marsh, and cut up with sloughs in every direction; to willow grove 50 chains, to tree 52 chains; marked tree, 3 notches both sides.

Thence N. 5¼ W. On edge of salt marsh to slough 50 chains; 50 links wide; 58 chains on northern slough, course west; 50 links wide; 62 chains, 50 links, on other slough; 40 links wide. Another slough 65 chains, 50 links; 30 links wide. Another slough 72 chains 50 links wide; course south; 113 chains to a slough 1 chain wide, at a wood building; 123 chains to a creek; course of creek N. E.; lands towards the hills of first quality; that towards the creek are salt marsh, cut up by sloughs in all directions.

Thence S. 43¾ W. On edge of salt marsh 10 chains; planted stake.

Thence N. 61 W. Run on edge of salt marsh in the direction of a house to slough, 43 chains; 1 chain wide; pass on moisty ground, at 55 chains; came to another slough; pass slough Aughing; 3 chains. Course south 95 chains, 50 links; planted stake on edge of salt marsh. Sign. Antonio Peralta's new house bears N. 4¼ E. A house of Mr. Mitchell bears N. 21½ W., with a fine field and some trees near by.

Thence S. 82½ W. On edge of salt marsh 21 chains, 60 links; planted stake; large round stake 10 feet in height; Frenchman's house, brickmaker, bears N. 22¼ W. Mr. Mitchell's house bears N. 8¼ W. Antonio Peralta's new house bears N. 13¾ E.

Thence S. 8¾ E. Run on edge of salt marsh 24 chains, 50 links; planted stake.

Thence S. 37¼ W. On foot land in San Leandro Creek, 31 chains; planted stake.

Thence S. 43. Run for place of beginning on point of San Leandro Creek, 1 chain wide, to stake 47 chains; land near the point salt marsh.

The Creek of San Leandro has about 30 feet inch, so I was informed by Mr. Ochenbaugh, who resides in the house known as Chipman & Co.'s.

We hereby certify, that we assisted A. M. Von Schmidt, Surveyor, in surveying the Rancho de San Antonio, and that said rancho has been in all respects, to the best of our knowledge and belief, well and faithfully and surveyed, and the boundary well marked, according to the instructions furnished by the Surveyor-General.

(Signed) LAFRAYS CHAPMAN,
Chainman.
BENJAMIN CAMON,
Chainman.
LANG O. HOBSON,
Axman.

Subscribed and sworn to by the above-named persons before me, a Justice of the Peace for the City and County of San Francisco, California, on this 25th day of September, 1852.

(Signed) P. W. SHEPHERD,
Justice of the Peace.

I, A. W. Von Schmidt, Deputy Surveyor, do solemnly swear, that in pursuance of an order of survey, issued by the United States Land Commission, dated August 14, 1852, for the survey of the Rancho de San Antonio, claimed by Vicente Peralta et al., and under instructions of Samuel D. King, Surveyor-General of the public lands of the United States for the State of California, bearing date the 29th August, 1852, and in strict conformity to the laws of the United States, and instructions furnished by the said Surveyor-General, I have faithfully surveyed the exterior boundaries of said rancho, with the division line ordered to be run by the commissioners, &c. &c., and do further solemnly swear, that the foregoing are the true field notes of such survey.

(Signed) ALLEXY W. VON SCHMIDT,
U. S. Deputy Surveyor.

Subscribed by said Allexy W. Von Schmidt, Deputy Surveyor, and sworn to before me, a Justice of the Peace for the State, and County of San Francisco, California, this 6th day of October, 1852.

(Signed) P. W. SHEPHERD,
Justice of the Peace.

Filed in office, October 20th, 1852.

(Signed) GEORGE FISHER,
Secretary.

Before the U. S. Land Commission for settling Private Land Claims in California.

VICENTE PERALTA et al. *v.* THE UNITED STATES. } Case No. 4, for the place called "San Antonio."

Petition and Conveyance to Chittenden et al.

To the Honorable the Board of Commissioners for settling Private Land Claims in California.

The petition of Maria Luisa Peralta de Castro and her husband Guillermo Castro, both of the County of Alameda, State of California, and Maria Bernarda Duarte de Valencia and her husband Bruno Valencia, both of the County of Santa Clara, said State, N. W. Chittenden and Robert Simson, both of the City and County of San Francisco, in said State, respectfully shows,

That, as appears by documents and testimony on file before this Honorable Board, in said case No. 4, and as your petitioners are informed, and verily believe, there was granted during the year 1820, by Don Pablo Vicente de Sola, then Governor of California, according to the laws of colonization then and there in force, to Luis Peralta, for himself and his family, a certain tract of land, situated in the present County of Alameda aforenamed, and known as the Rancho of San Antonio, and described in the petition, grant, and

expediente thereof, and also by the written testimony and documents on file as aforesaid, in said case No. 4, reference whereto is hereby made for greater certainty in the premises.

That, thereupon, as these petitioners are informed, and verily believe, the said Luis Peralta received, and with his wife and family entered into the full and lawful possession of the said rancho. That the wife of the said Luis Peralta was Loreta Alviso de Peralta, to whom the said Luis Peralta had been lawfully married many years previously to the said year 1820, at the time of the said grant and possession and the petition to the said Governor, therefore was living with him as his lawful wife, and continued so to live with him until her death, which occurred about the year 1836. That at the time of the said petition, grant, and possession as aforesaid, the said Loreta Alviso and Luis Peralta had nine children, lawfully begotten during said marriage, being four sons and five daughters, to wit: Maria Teodora, Maria Trinidad, Ignacio, Maria Josefa, Jose, Domingo, Maria Guadalupe, Antonio Maria Louisa (one of these, petitioners), and Vicente Peralta. That the said Loreta Alviso de Peralta died intestate, about the year 1836 as aforesaid, her said husband and all of her said children surviving her. That the said Maria Teodora Peralta was the mother of the petitioner Maria Bernarda Duarte de Valencia, and died intestate in the month of November, 1850; and that the said Maria Teodora Peralta had, including the said petitioner Maria Bernarda, nine lawful children, all of whom are alive excepting two, those two having died, leaving minor heirs now living. That the said Luis Peralta died some time during the year 1851, all of the said children of himself and his said wife, except the said Maria Teodora, surviving him and being now alive.

That as appears by the said documents and testimony on file as aforesaid, in said case No. 4, and as these petitioners are informed, and verily believe, the said grant was solicited and made for purpose of settlement, cultivation, and stock-raising, and for the support, maintenance, and benefit of the numerous family of the said Loreta Alviso and Luis Peralta, and that the conditions annexed to said grant were performed by the said Luis Peralta, and the said rancho founded with the aid of his said wife, sons, and daughters; and that until the death of the said Loreta Alviso de Peralta, the said rancho was owned and held by her and the said Luis Peralta as the common property of them both, each being owner of the undivided one-half part thereof; and that after her said death the same continued to be the common property of the said Luis Peralta as owner of the one and undivided one-half part thereof, and his said sons and daughters as owners of the remaining undivided one-half part thereof, by inheritance from their said deceased mother.

That there is now on file in said case No. 4, a document purporting to be a certified copy of the last will and testament of the said Luis Peralta; and these petitioners respectfully submit, and verily believe, that the said will, as shown by the said copy thereof, is vague, uncer-

tain, indefinite, and void, and contains no devise or disposition of the said rancho or any part thereof, and that the same has never been probated according to the statutes of the State of California, in such case made and provided; and that after and by the death of the said Luis Peralta, notwithstanding the said alleged will, his said surviving four sons and four (4) daughters, and the said heirs of his said deceased daughter Maria Teodora, inherited from him his said undivided one-half part of the said rancho, and thereby became owners in common of the whole of the said rancho. Each of said surviving sons and daughters being the owner of the undivided one-ninth (1-9) part thereof; and the said heirs of the said Maria Teodora, deceased, being owners in common of a (1-9) one-ninth part thereof. And these petitioners further show that the said Maria Josefa and Maria Guadalupe Peralta are unmarried women.

That on or about the 30th day of September, A. D. 1853, the said Maria Josefa and Maria Guadalupe Peralta, by their respective deeds of said last-mentioned date, granted, sold, and conveyed unto the said petitioner, N. W. Chittenden, all of the estate, right, title, interest, claim, and demand whatsoever, of them and each of them, in and to the said Rancho of San Antonio.

That on or about the first day of October, A. D. 1853, by deed, dated on that day, the said Maria Trinidad Peralta, wife of Mariano Castro, of said Santa Cara County, and her said husband, Mariano Castro, granted, sold, and conveyed unto the said petitioner, H. W. Chittenden, all of the estate, right, title, interest, claim, and demand of them, and each of them, in and to the said Rancho.

That on or about the 7th day of said October, the said petitioners, Maria Louisa Peralta de Castro, and her said husband, Guillermo Castro, by deed, dated on said last-mentioned day, granted, sold, and conveyed unto the said petitioner, N. W. Chittenden, the one undivided one-fourth part of all the estate, right, title, interest, claim, and demand of them, and each of them, in and to the said Rancho; also, thereupon, constituting the said N. W. Chittenden, their agent and attorney, in respect to their remaining portion thereof, and their interest in the same.

That thereafter, to wit, on or about the 17th day of said October, by deed, dated on that day, the said N. W. Chittenden granted, sold, and conveyed the one undivided one-half part of all his estate, right, title, interest, claim, and demand in and to the said Rancho, unto the said petitioner, Robert Simson.

That thereafter, to wit, on or about the 23d day of January, A. D. 1854, by deed, dated on that day, Guadalupe Bernal, one of the grandchildren and heirs of the said Maria Teodora Peralta, being of full age, granted, sold, and conveyed unto the petitioners, N. W. Chittenden and Robert Simson, all of his estate, right, title, interest, claim, and demand in and to the said Rancho.

That said deeds are written in the English and Spanish languages,

and are ready to be produced. Copies of the English thereof being herewith filed as part of this petition.

And the said petitioners, by reason of the said inheritance, and of the said deeds of conveyance, claim to be each, respectively, the owners of and entitled to an undivided share and interest in the said Rancho, and aver that no partition has ever been made of the said common property between or among the said owners in common thereof.

And these petitioners further show, that the said daughters and the said heirs of the said Maria Teodora, are persons unacquainted with the English language, and unused to business affairs, and were not, until long after the 4th day of March, 1853, aware of the proper means of ascertaining and claiming their said rights in the premises. And these petitioners further show, that as they are informed and verily believe the said four sons of the said Loreta Aloiso and Louis Peralta, are seeking to obtain a confirmation of said grant in favor of themselves, exclusively, in violation of the rights of these petitioners in the premises, and to these petitioners' great damage.

Wherefore, these petitioners pray, that as co-owners in common, of the said Rancho, with the said Vicente Peralta et al., and for the securing of their rights in the premises, they may be admitted as parties to the record in said Case No. 4, and be included in any confirmation of said grant, or any part thereof, which may at any time be made by this Honorable Board, and, being so admitted, that they be allowed to introduce testimony in relation to their rights and interests in the premises, and the extent thereof, and that reference be made to all documents and testimony on file, as aforesaid, in said Case No. 4, as part of this petition, and for greater certainty in the premises, and that such other and further relief be extended to these petitioners as to right and justice may appertain.

N. W. CHITTENDEN & ROBERT SIMSON,
In person and as counsel for the petitioners Castro, and the petitioners Valencia.

San Francisco, January 30th, 1854.

State of California, County of San Francisco, *ss.*

N. W. Chittenden, being duly sworn, deposes and says, that he has read the foregoing petition and knows the contents thereof; that he is one of the petitioners named therein; that he is the attorney and counsel of the petitioners, Maria Luisa Peralta de Castro and her husband, Guillermo Castro, and Maria Bernarda Duarte de Valencia and her husband, Bruno Valencia. That the contents of said petition are true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes the same to be true.

N. W. CHITTENDEN.

Subscribed and sworn to before me this 30th day of January, 1854.

ALPHEUS FELCH,
Commissioner.

Know all men by these presents, that I, Maria Josefa Peralta, of the County of Santa Clara, State of California, one of the daughters and heirs of Dna. Loreta Alviso de Peralta and Don Luis Peralta, deceased, for and in consideration of the sum of twenty thousand (20,000) dollars to me in hand paid by Nathaniel W. Chittenden, of the City and County of San Francisco, said State, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, have given, granted, bargained, sold, and conveyed, and by these presents do give, grant, bargain, sell, and convey unto the said N. W. Chittenden, his heirs and assigns forever, all my estate, right, title, interest, claim, and demand whatsoever, as well in law as in equity, of, in, and to all that parcel of land situated in the County of Alameda, said State, and known and designated as the Rancho of San Antonio, and bounded and described as follows, to wit: on the southerly, by the Creek of San Leandro; on the easterly, by the summit of the mountain range; on the westerly, by the Bay of San Francisco; on the northerly, by the Cerrito of San Antonio, or the Rancho of San Pablo, according to the maps and surveys now on file before the United States Land Commission, being the same ranch hereafter granted to and held by the said Luis Peralta and family, with the hereditaments and appurtenances thereunto belonging, or in anywise appertaining.

To have and to hold all and singular the said premises hereby sold and conveyed with the appurtenances unto the said N. W. Chittenden, his heirs and assigns forever.

In witness whereof, I have hereunto set my hand and seal this thirtieth (30th) day of September, one thousand eight hundred and fifty-three.

her
MARIA JOSEFA ⋈ PERALTA. [SEAL.]
mark.

Signed, sealed, and delivered in the presence of
FREDERICK B. VAN VLEEK.

State of California, County of Santa Clara, *ss.*

On the first day of October, one thousand eight hundred and fifty-three, before me, a Notary Public, in and for said County, personally appeared Maria Josefa Peralta, known to me to be the person described in, and who executed the foregoing deed of Conveyance in English and Spanish, and acknowledged that she well understood

the contents thereof, and that she executed the same freely and voluntarily for the uses and purposes therein mentioned.

In testimony whereof, I have hereunto set my hand and official seal, the day and year last above written.

[SEAL.] L. ARCHER,
Notary Public.

Filed for record at request of N. W. Chittenden, Oct. 3, 1853, at 7 o'clock, A. M., and recorded Oct. 8th, 1853, at 8 o'clock, P. M., in Book of Deeds "A," pages 414, 415, and 416.

Recorder's Office, Alameda County.

A. M. CHURCH,
Recorder.

By T. M. COOMBS,
D. R.

Know all men by these presents, that I, Maria Guadalupe Peralta, of the County of Santa Clara, State of California, one of the daughters and heirs of Dna. Loreta Aloiso de Peralta and Don Luis Peralta, deceased, for and in consideration of the sum of twenty thousand dollars to me in hand paid by Nathaniel W. Chittenden, of the City and County of San Francisco, said State, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, have given, granted, bargained, sold, and conveyed, and by these presents do give, grant, bargain, sell, and convey unto the said N. W. Chittenden, his heirs and assigns forever, all my estate, right, title, interest, claim, and demand whatsoever, as well in law as in equity, of, in, and to all that parcel of land situated in the County of Alameda, said State, and known and described as the Rancho of San Antonio, and bounded and described as follows, to wit, on the southerly by the creek of San Leandro, on the easterly by the summit of the mountain ridge, on the westerly by the Bay of San Francisco, on the northerly by the cerrito of San Antonio, or the Rancho of San Pablo, according to the maps and surveys now on file before the U. S. Land Commission, being the same ranch heretofore granted to, and held by the said Luis Peralta and family, with the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, to have and to hold all and singular the said premises hereby sold and conveyed, with the appurtenances, unto the said N. W. Chittenden, his heirs and assigns forever.

In witness whereof, I have hereunto set my hand and seal this thirtieth (30) day of September, one thousand eight hundred and fifty-three.

(Signed)

her
MARIA GUADALUPE ⋈ PERALTA. [SEAL.]
mark

Signed, sealed and delivered, in the presence of
FREDERICK B. VAN VLEEK.

State of California, County of Santa Clara, *ss.*

On this first day of October, before me, a notary public in and for said county, personally appeared Maria Guadalupe Peralta, in the year one thousand eight hundred and fifty-three, known to me to be the person described in, and who executed the foregoing instrument, a deed of conveyance, and acknowledged that she well understood the contents thereof, and that she executed the same freely and voluntarily, and for the uses and purposes therein mentioned.

In testimony whereof, I have hereunto set my hand and [SEAL.] official seal, the day and year last above written, to wit, the first day of October, 1853.

(Signed) L. ARCHER,
Notary Public.

Filed for record at request of N. W. Chittenden, Oct. 3, 1853, at 7 o'clock, A. M., and recorded Oct. 10th, 1853, at 7 o'clock, P. M., Book of Deeds A, pages 416, 417, and 418.

A. M. CHURCH,
Recorder.
By T. M. COOMBS,
D. R.

Know all men by these presents, that we, Mariano Castro and Trinidad Peralta de Castro, wife of said Mariano Castro, in her own right, of the County of Santa Clara, State of California, for and in consideration of the sum of ten thousand dollars to us in hand paid by Nathaniel W. Chittenden, of the City and County of San Francisco, said State, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, have given, granted, bargained, sold, and conveyed, and by these presents do give, grant, bargain, sell, and convey unto the said N. W. Chittenden, his heirs and assigns forever, all the estate, right, title, interest, claim, and demand whatsoever, as well in law as in equity, which we have, or which either of us has, and particularly which the said Trinidad Peralta has, as one of the daughters and heirs of Dona Loreta Aloiso de Peralta, wife of Don Luis Peralta, deceased, or which she has in any way whatsoever, and not heretofore legally and equitably disposed of, of, in, and to all that portion or parcel of land situated in the County of Alameda, said State, and known and designated as the Rancho of San Antonio, and bounded and described as follows, to wit, on the southerly by the creek of San Leandro, on the easterly by the summit of the mountain range, on the westerly by the Bay of San Francisco, on the northerly by the cerrito of San Antonio, or the Rancho of San Pablo, according to the maps and

surveys now on file before the U. S. Land Commission, being the same ranch heretofore granted to and held by the said Luis Peralta and family, with the hereditaments and appurtenances thereunto belonging, or in anywise appertaining; also, of, in, and to all the cattle, horses, and stock generally, belonging to us, or either of us, in the premises as aforesaid, and the proceeds thereof, and every part and parcel thereof. To have and to hold all and singular the said premises (real and personal) hereby sold and conveyed, or intended so to be, with the appurtenances, unto the said N. W. Chittenden, his heirs, executors, administrators, and assigns forever, with full power and authority to the said N. W. Chittenden, and his legal representatives, in the name of us, or either of us, or otherwise, but to his use, to ask, demand, sue for, recover, and receive the said premises (real and personal), and every part and parcel thereof, to realize and reduce the same unto his possession, in such a way and by such means as he may deem best, and generally to do and perform every act and deed necessary to his full and complete possession and engagement of the premises, and every part and parcel thereof.

In witness whereof, we the said Mariano Castro and Trinidad Peralta de Castro, in her own right, have hereunto set our hands and seals respectively, this first day of October, one thousand eight hundred and fifty-three.

her
MA. TRINIDAD PERALTA X DE CASTRO. [SEAL.]
mark

his
MARIANO X CASTRO. [SEAL.]
mark

Signed, sealed, and delivered in the presence of
FREDERICK B. VAN VLEEK.

State of California, County of Santa Clara, *ss.*

On this first day of October, one thousand eight hundred and fifty-three, before me, a Notary Public, in and for said county, personally appeared Mariano Castro and his wife, Ma. Trinidad Peralta de Castro, known to me to be the persons described in and who executed the foregoing deed of conveyance, and acknowledged that they and each of them, well knew the contents thereof (in English and Spanish), and executed the same freely and voluntarily, for the uses and purposes therein mentioned. And the said Ma. Trinidad Peralta de Castro, the wife of the said Mariano Castro, acknowledged to me, separate, apart from, and without the hearing of her said husband, she well knew the contents of the said instrument, and executed the same without fear, or compulsion, or undue influence of her said husband, freely and voluntarily, for the uses and purposes therein mentioned, and that she does not wish to retract the same.

[SEAL.] In testimony whereof, I have hereunto set my hand and official seal, the day and year last above written.

L. ARCHER,
Notary Public.

Recorded, Oct. 8, 1853, at 6 o'clock P. M., in Book of Deeds "A," page 412, 413, 414. Recorder's Office, Alameda County.

A. M. CHURCH,
Recorder.

By T. M. COOMBS,
D. R.

Whereas Dona Loreta Alviso de Peralta, wife of Don Luis Peralta, died about the year 1836, in the town of San Jose de Guadalupe, Alta California, leaving property and heirs, and whereas the said Don Luis Peralta subsequently, to wit, about the year 1850, died in the same place, leaving likewise property and heirs: Now these presents: witness that we, the undersigned, certain of the heirs at law of the said Dona Loreta Alviso and the said Don Luis Peralta, deceased, and also I, the respective husband of the said heirs as undersigned, have of our own free will nominated N. W. Chittenden, Attorney-at-law, of the City and County of San Francisco, State of California, to be the true and lawful attorney of us and each of us, and do hereby give and confer upon the said attorney full and complete power and authority for us and each of us, and in the names and behalf of us and each of us, to present, conduct, and prosecute, to final adjudication, before the necessary tribunals of the United States, any claim or claims which we or any of us may have in any land or lands, as such heirs, as aforesaid; to demand and make partition and division with the other heirs of the said Dona Loreta Alviso, and of the said Don Luis Peralta, deceased, of the estate real and personal of the said deceased, and of each of them, and our and each of our shares, and parts of their and each of their personal estate, to accept and receive, and upon any partition and division to enter upon and take possession of any lands, tenements, or hereditaments which may be set off to us and each of us, of the real estate or estates of the said deceased respectively as aforesaid, and to enter into any covenant and agreement respecting the shares and parts of us, and of each of us, of the said estate or estates, real or personal, of the said deceased, which the said attorney shall think reasonable or for our interest, and in the names and for the use of us and each of us, to demand, sue for, and take possession of all and singular the lands, tenements, hereditaments, property, and effects whatsoever, withheld from us or either of us, and to which we or either of us may be entitled, and which we or either of us may lawfully claim, from the heirs, executors, administrators, and assigns of the said Dona Loreta Alviso de Peralta, and of the said Don Luis Peralta, deceased, respectively, or from the assigns or legal representatives

of the said heirs, executors, administrators, and assigns as aforesaid, or otherwise lawfully claim as such co-heirs as aforesaid. And for all and any of these purposes to commence and prosecute to final judgment and execution any suits or actions, real, personal, or mixed, which the said attorney shall deem proper for the recovery, possession, or enjoyment of the premises or any part thereof, or of any matter or thing which is or may hereafter be due, belonging, or accruing to us, or either of us, for or by reason of the premises or any part thereof, *or of any matter or thing which is or may hereafter be due, belonging, or accruing to us, or either of us, for or by reason of the premises or any part thereof*, and in any such suits or actions for us and each of us to appear and plead before any courts or tribunals having jurisdiction thereof, and all stipulations, recognizances, and other requests in any suits or actions to allow and establish, to determine the same suits or actions, and any questions arising on the same, by arbitration or compromise, and of all receipts and recoveries in the premises, and acquittances and discharges to execute and deliver, and finally to arrange, adjust, and settle the rights and interests of us, and each of us, in the premises or any part thereof, by sale, compromise, or otherwise, and particularly to grant, bargain, sell, or convey the right, title, estate, and interest of us and each of us in and to the said estate or estates, real or personal, or any part thereof, by sale, compromise, or otherwise, and particularly to grant, bargain, sell, and convey the right, title, estate, and interest of us and each of us in and to the said estate or estates, real or personal, or any part thereof, or lease the same, as the said attorney shall think best, and for all or any of these purposes to make, execute, acknowledge, and deliver any deeds, conveyances, releases, agreements, contracts, leases, compromises, or compositions whatsoever, in the opinion of the said attorney necessary or expedient in the premises or any part thereof, and generally to do and perform all matters and things requisite and proper in the premises, with the same powers and the same validity as we or either of us could if personally present, with full power to the said attorney of substitution and revocation in the premises or any part thereof, hereby ratifying and confirming whatsoever the said attorney or his substitute or substitutes shall lawfully or by virtue hereof, and in consideration of the professional services and advice by the said attorney to us and each of us already rendered and given, and for and in lieu of his retainer to act in the premises as the attorney and counsellor-at-law of us and each of us, we and each of us do hereby give, grant, convey, and confirm unto the attorney of us and each of us, and to his heirs and assigns, the undivided one-fourth ($\frac{1}{4}$) part of all the estate, right, title, interest, claim, and demand of us, and each of us, of, in and to the land, property, and effects herein mentioned and belonging to us and each of us, the premises, and in consideration of the premises and of the said interest and property in the premises given

and granted to the said attorney as aforesaid, the power and authority conferred upon him as aforesaid shall not be revoked without the consent of him, the said attorney.

In witness whereof, we, Maria Louisa Peralta de Castro una de las hijas and heirs of the said Dona Loreta Alviso de Peralta and Dn. Louis Peralta deceased, and Guillermo Castro, husband of the said Maria Luisa Peralta, have hereunto set our hands and seals respectively, this seventh day of October, one thousand eight hundred and fifty-three

(Signed) MA. LUISA PERALTA her × mark. DE CASTRO. [SEAL.]
GUILLERMO CASTRO. [SEAL.]

Signed, sealed, and delivered in the presence of
J. M. MURPHEY.

State of California, County of Santa Clara, *ss.*

On this seventh day of October, one thousand eight hundred and fifty-three, before me, a Notary Public in and for said county, personally appeared Maria Luisa Peralta de Castro, and Guillermo Castro, known to me to be the persons described in and who executed the foregoing instrument in the English and Spanish languages; and acknowledged to me that they and each of them well knew the contents thereof, and executed the same freely and voluntarily for the uses and purposes therein mentioned. And the said Maria Luisa Peralta de Castro, wife of the said Guillermo Castro, acknowledged to me, on an examination separate and apart from and without the hearing of her said husband, that she well understood the contents of the said instrument, and that she executed the same for the uses and purposes therein mentioned, freely and voluntarily, without fear or compulsion, or undue influence of or on the part of her said husband, and that she does not wish to retract the same.

[SEAL.] In testimony whereof, I have hereunto set my hand and official seal, the day and year last above written.

Recorder's office, Alameda County.

J. M. MURPHY,
Notary Public.

Recorded October 15th, 1853, at 9 o'clock P.M., in book of deeds "A," pages 441, 442, 443, 444, 445, 446.

A. M. CHURCH,
Recorder.
By T. M. COOMBS,
Deputy Recorder.

Know ye all men by these presents, that I, Nathaniel M. Chittenden, of the City and County of San Francisco, State of Cali-

fornia, for and in consideration of the sum of one dollar, to me in hand paid, by Robert Simson, of the same place, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, have granted, bargained, sold, and conveyed, and by these presents, do grant, bargain, sell, and convey unto the said Robert Simson, his heirs and assigns forever, the one undivided half part of all my estate, right, title, interest, claim, and demand whatsoever, as well as in law as in equity, of, in and to all that portion or parcel of land situated in the County of Alameda, said State, and known and designated as the Rancho of San Antonio, and bounded and described as follows, to wit: On the southerly by the Creek of San Leandro, on the easterly by the summit of the mountain range, on the westerly by the Bay of San Francisco, on the northerly by the Cerrito of San Antonio, or the Rancho of San Pablo, according to the maps and surveys now on file before the United States Land Commission; it being the same ranch heretofore granted to and held by Luis Peralta, deceased, and family, with the hereditaments and appurtenances thereunto belonging, or in anywise appertaining. Also the one undivided half part of all my estate, right, title, interest, claim, and demand whatsoever, in and to the cattle, horses, and stock generally, belonging to or inherited from as hereinafter mentioned, the said Luis Peralta and his wife Loreta Alviso de Peralta, both deceased, and the proceeds thereof; all which said estate, right, title, and interest, real and personal, as aforesaid, were heretofore conveyed to me by certain of the heirs of the said Luis and Loreta Alviso Peralta deceased, and belong equally to the said Robert Simson and myself, as owners in common thereof; and this conveyance is given as legal evidence and title of his said half ownership therefor. To have and to hold the said premises and property real, and personal, hereby conveyed or intended so to be with the appurtenances, unto the said Robert Simson, his heirs, executors, administrators, and assigns forever; subject nevertheless to all mortgages, liens, and encumbrances thereon, or in any part thereof which I have heretofore given, created, or suffered the same, having been effected for the mutual benefit and advantage of the said Robert Simson and myself.

In witness whereof, I have hereunto set my hand and seal, this seventeenth day of October, one thousand eight hundred and fifty-three.

(Signed) N. W. CHITTENDEN. [SEAL.]

Signed, sealed, and delivered in presence of
FREDERICK B. VAN VLECK,
WM. H. STEVENS.

State of California, County of San Francisco, *ss.*

On this seventeenth day of October, one thousand eight hundred and fifty-three, before me, a Notary Public, in and for said County,

personally appeared Nathaniel W. Chittenden, known to me to be the person described in, and who executed the foregoing instrument, and acknowledged to me that he executed the same, freely and voluntarily, for the uses and purposes therein mentioned.

In witness whereof I have hereunto set my hand
[SEAL.] and official seal, the day and year last above written.

E. V. JOICE,
Notary Public.

Recorded Oct. 27th, 1853, at 9 o'clock A. M., in Book of Deeds, "A," pages 487 & 488, Recorder's Office, Alameda County.

A. M. CHURCH,
Recorder.

By T. M. COOMBS,
Deputy Recorder.

Know all men by these presents, that I, Guadalupe Bernal, one of the grandchildren and heirs of Dona Teodora Peralta, deceased, and one of the great-grandchildren and heirs of Dona Loreta Louisa de Peralta and Don Luis Peralta, deceased, of the *the* County of Contra Costa, State of California, for and in consideration of the sum of three hundred and fifty dollars to me in hand paid by Nathaniel W. Chittenden and Robert Simson, of the City and County of San Francisco, said State, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, have given, granted, bargained; sold, and conveyed, and by these presents do give, grant, bargain, sell, and convey, unto the said N. W. Chittenden and Robert Simson, their heirs and assigns forever, all the estate, right, title, interest, claim, and demand whatsoever, as well in law as in equity, which I have by inheritance, by purchase, or otherwise, of, in, and to all that portion or parcel of land situated in the County of Alameda, said State, and known and designated as the Rancho of San Antonio, and bounded and described as follows, to wit: On the southerly, by the Creek of San Leandro; on the easterly, by the summit of the mountain range; on the westerly, by the Bay of San Francisco; on the northerly, by the Cerrito of San Antonio, or the Rancho of San Pablo, according to the maps and surveys now on file before the United States Land Commission, being the same ranch heretofore granted to and held by the said Luis Peralta and family, with the hereditaments and appurtenances as thereunto belonging, or in anywise appertaining, to have and to hold, all and singular, the said premises, hereby sold and conveyed, or intended so to be, with the appurtenances, unto the said Nathaniel W. Chittenden and Robert Simson, their heirs and assigns forever.

In witness whereof I have hereunto set my hand and seal, this twenty-third day of January, one thousand eight hundred and fifty-five.

(Signed) GUADALUPE BERNAL.

Signed, sealed, and delivered in presence of
E. V. JOICE,
FREDERICK B. VAN VLECK.

State of California, County of San Francisco, *ss.*

On this twenty-third day of January, one thousand eight hundred and fifty-four, before me, a Notary Public, in and for said County, personally appeared Guadalupe Bernal, known to me to be the person described in, and who executed the foregoing instrument, and acknowledged to me that he executed the same freely and voluntarily for the uses and purposes therein mentioned.

In witness whereof I have hereunto set my hand and official seal, the day and year last above written.

(Signed)
[SEAL.] E. V. JOICE,
Notary Public.

Filed in office January 31, 1854.
(Signed) GEORGE FISHER,
Secretary.

Before the United States Commission for settling Private Land Claims in California.

VICENTE PERALTA et al. *v.* UNITED STATES. } Case No. 4, for the place called "San Antonio."

Affidavit of Maria Bernarda Duarte de Valencia.

Maria Bernarda Duarte de Valencia, of the County of Santa Clara, State of California, being duly sworn, deposes and says that she is the lawful wife of Bruno Valencia, of said county; that she is the grand-daughter of Luis Peralta and his wife, Loreta Alviso de Peralta, both now deceased. That she is of the age of 39 years; that her said grand-parents had nine children, four sons and five daughters, to wit: Maria Teodora Peralta, Maria Trinidad, Ignacio, Maria Josefa, Jose Domingo, Maria Guadalupe, Antonio Maria, Maria Luisa, and Vicente Peralta. That the said Maria Teodora Peralta was the mother of this deponent, and is now dead. That deponent's said mother had nine lawful children; two of them are also dead, leaving minor heirs. That, as appears by documents and written testimony, on file before this Honorable Board, in said case No. 4, and as this deponent is informed and verily believes, about the year 1820 her said grandfather petitioned for and received from Don Pablo Vicente de Sola, the then Governor of California, a grant of land lying in the present County of Alameda, in said State, and known as the rancho of San Antonio, and described in the petition, grant, and expediente thereof, on file as aforesaid, in said case No. 4.

That the said grant was made, and judicial possession given, of said rancho to deponent's said grandfather after and during his said marriage with his said wife, the said grandmother of this deponent, and after the birth of all of the said children of deponent's said grandparents.

That the said grant was for the purposes of settlement, stock-raising, and cultivation, and that the conditions annexed to said grant were performed by her said grandfather, with the aid of his said family, and especially with the aid of deponent's said mother, who was the eldest of the family, and materially aided in the foundation and establishment of the said rancho, and who lived thereon with her family, including this deponent, for about twenty years, engaged in cultivating the same and in stock-raising thereon.

That the said rancho was asked for and granted to the said Luis Peralta for the support and maintenance and benefit of the numerous family, of himself and deponent's said grandmother.

That as this deponent is informed, and verily believes, the said rancho was owned and held by her said grand parents as the common property of them both. That deponent's said grandmother, Loreta Alviso de Peralta, died about the year 1836, leaving her said nine children alive. That deponent's said grandfather, Luis Peralta, also died in the year 1851. That as this deponent is informed and advised, and verily believes, that by and after the death of her said grandmother, Loreta Alviso de Peralta, the said children of herself and the said Luis Peralta became owners in common with the said Luis Peralta of the said rancho; and that on the death of said Luis Peralta, the said rancho became the common property of all of his said sons and daughters, their heirs and grantees.

That no partition has ever been made of the said common property between the said owners in common thereof. That as this deponent is informed, and verily believes, there is now on file in said case No. 4, a document purporting to be a certified copy of the last will and testament of her said grandfather, Luis Peralta; that by said document the whole of the said rancho is sought to be divided among the said four sons of the said Loreta Alviso and Luis Peralta, by way of ratification of an alleged previous donation *inter vivos*, tending to exclude the said daughters, their heirs and grantees from all participation in the said common property, and irrespective of their rights as owners in common with the said Luis Peralta and his said sons, of the said rancho.

That the said Luis Peralta died at a very advanced age shortly after the date which the said document purports to bear. That as this deponent is informed and believes, if that original of said certified copy was signed by the said Luis Peralta, the same was so signed through misrepresentation and in ignorance of its true contents and import, and that the same has never been probated according to the laws of the State of California.

That as this deponent is informed and believes, the said four sons of the said Luis Peralta, uncles of this deponent, and divers persons claiming to divert title from them in the premises, are now seeking to exclude the said five daughters of the said Luis Peralta, their heirs and grantees in the premises, from all participation in said common property, and that the motion based on this affidavit for this deponent and the said daughters, their heirs and grantees, to be made parties to the record in said case No. 4, is made for purposes of justice, and to secure the rights of deponent and of the said daughters, their heirs and grantees, in the premises.

her
MARIA BERNARDA ✕ DUARTE DE VALENCIA.
mark.

Subscribed and sworn to before me, this 24th day of January, 1854.

ALPHEUS FELCH,
Commissioner.

Filed in office, Jan. 31, 1854.
(Signed) GEO. FISHER,
Secretary.

Motion.

Before the United States Land Commission for settling private land claims in California.

VICENTE PERALTA et als. *v.* THE UNITED STATES. } Case No. 4. For the place called "San Antonio."

In this case the petitioners, Maria Louisa Peralta de Castro and her husband, Guillermo Castro, Maria Bernarda Duarte de Velencia and her husband, Bruno Valencia, Nathaniel W. Chittenden, and Robert Simson, move this Honorable Commission that the petition and proceedings in said case No. 4 be amended, by admitting these petitioners to be parties to the record in said case as claiming to be owners in common of undivided interests and shares in the rancho or place called San Antonio, and as claiming to be included in any confirmation of the grant of the same or any part thereof, which may at any time be made by this Commission.

That being so admitted, they be allowed to introduce further testimony in said case No. 4, in respect to their rights and interests in the premises, and that according to the prayer of their petition, and as part thereof, they be allowed to refer to all documents and testimony on file in said case No. 4.

This motion is based upon the sworn petition of said petitioners, and upon the affidavit of the said petitioner Maria Bernarda Duarte de Valencia, and upon the documents and testimony on file in said case No. 4.

N. W. CHITTENDEN,
ROBERT SIMSON,
In person and as attorney and counsel for petitioners Castro and Valencia.

San Francisco, January 31st, 1854.

Filed in office, January 31st, 1854.
(Signed) GEO. FISHER,
Secretary.

Opinion and Decree by Commissioner, Alpheus Felch.

VICENTE PERALTA et al.
v.
THE UNITED STATES.

For the place called "San Antonio in Alameda."

The claimants to the land known under the name of San Antonio are Vicente, Antonio, Ignacio, and Domingo Peralta, the four sons of Luis Peralta, deceased. They allege title to the premises through their father under his last will and testament, bequeathing to each a separate portion of the premises, agreeably to a division of the property among them, made in his lifetime. The boundaries of the respective portions of each are specified in a stipulation filed in the case.

The petition in this case was originally filed by the four sons above named, but subsequently two of them, Antonio and Ignacio, filed their several petitions, each claiming his own portion of the premises in severalty. These claims are presented in cases No. 273 and 274. By an order of the Commission, their names were stricken out from the petition in this case, and Vicente and Domingo are now the only claimants in this case. The three cases were, however, submitted in argument together, and the papers in each were used in all. A stipulation is also filed describing the several portions of the premises claimed, which belong to each of the three claimants, according to the will of their father, and a confirmation is sought in favor of each for his separate portion as therein specified. I see no difficulty in carrying this desire into effect by a proper decree, entered in the three cases, if, on examining the merits of the claim, the petitioners shall be found entitled to confirmation. Two sources of title are alleged, by which the property of the premises claimed passed from the government to the father of the claimants; the first by grant from Governor Sola, the second from Arguello, then acting as Governor ad interim.

The first, it is claimed, covered the entire premises, for which confirmation is now demanded; the second, a portion of the same premises, about which a question rose, which will be again adverted to in this opinion.

The claimants have filed in the case a duly certified traced copy from the archives of the Espediente, showing the proceedings before the Governor to obtain the grant, and containing the various documents which were then filed or issued anterior to the final grant by Sola. These consist of—

First. An application by Luis Peralta for a grant of the land, dated June 20, 1820.

2d. An order or decree, signed by Governor Sola, directing Captain Luis Antonio de Arguello, Commandant of the Presidio of San Francisco, to appoint an officer or sergeant, on whom he may rely, to place Sergeant Luis Peralta in possession of the lands petitioned for, giving notice thereof to the fathers of the adjoining Missions, to place landmarks in the four corners of said lands, and to return the documents, that they may be recorded in the archives, and give it the proper certificate. This order bears date August 3, 1820.

3. An order signed by Arguello, directing Lieutenant Ignacio Martinez to execute the preceding decree, dated August 10, 1820.

4. A report from the minister of the Mission of San Jose, stating that there was no objections to the grant, with certain reservations, dated August 16, 1820.

5. The return of said Martinez, showing that he had put said Luis Peralta in possession of the land, describing the boundaries.

This document is signed by said Martinez, and by two assisting witnesses, Juan Miranda and Nicolas Bereyesa, and is dated August 16, 1820.

6. An order by Governor Sola, dated August 30, 1820, stating that the reverend father of the Mission of San Francisco had evidenced, in a title annexed to the proceedings, that Don Ignacio Martinez did not fulfil the decree before-mentioned, and that through his fault possession had been given to Peralta of some lands belonging to the Mission, and ordering that these be withdrawn from those which were assigned to said Peralta, and that they be as they were before, in favor of the neophytes of said Mission of San Francisco, and this being done in presence and with the knowledge of its missionary fathers, this despatch is ordered to be returned to the Governor for its conclusion.

7. A document, dated September 14, 1820, signed by the fathers of the Mission of San Francisco, stating that the Mission had had a portion of the land granted to them since the previous November, but that there was no objection to the boundaries of the Peraltas land being so placed as to give him the remainder of the premises claimed by him.

8. The return of said Martinez to the second decree of the Governor's, filing the boundaries of the tract of land anew, in such manner as to exclude the portion claimed by the Mission. This document is signed by said Martinez, and the same assisting witnesses whose names are subscribed to the return to the former decree, and is dated September 16th, 1820.

9. A letter from Luis Peralta to Captain Luis Antonio Arguello, dated October 14, 1820, remonstrating against the curtailing for the benefit of the Mission of the lands above-mentioned.

10. A communication from said Arguello to the Governor to the

same effect, with which the last-mentioned letter was transmitted to him, dated June 23d, 1821.

11. A certificate or decree which is as follows:

Monterey, Oct. 18, 1822.

This day was issued, in favor of Sergeant Luis Peralta, by the Governor of this Province, the certifying document, for the land which has been granted to him, as appears by this folio, by the writ of possession, which the Lieutenant of his Company, D. Ignacio Martinez, gave him, agreeably to an order issued him by government, and this document shall remain filed in the archives of said government.

"SOLA."

I have above stated all the documents in their order of time connected with the concession of by Governor Sola, on which the claimants rely, anterior to the issue of the grant by him.

The original title paper issued thereon by Governor Sola is given in evidence, and its genuineness is duly proved. It recites the facts appearing in the above-mentioned proceedings, and describes the premises by boundaries excluding the portion claimed by the Mission, and concludes as follows: "In order that in all time to come it may be attested that this concession to said Sergeant Peralta was made in remuneration of forty years' honorable service in the military career, I give him the document signed in the Port of Monterey, of Upper California, on the 18th day of October, 1822, second year of the Mexican independence.

"(Signed) PABLO VICENTE DE SOLA."

The terms of this document are sufficient, in my opinion, to constitute Peralta the owner of the property described in it, if the Governor had, at the time of making it, the power to grant lands belonging to the nation. But this authority has been denied, and we must therefore examine the question. Pablo Vicente de Sola was appointed Governor of California in 1815, under the Spanish authorities, and was the last Governor had under that regime. Mexico declared her independence on the 23d February, 1821, and on the 24th of August in the same year, by the treaty of Cordova, the tie which bound her to Spain was severed forever, and the new government was finally established. On the 9th of April, 1822, the authorities of California recognized the independent Government of Mexico, adopted the new order of things, and swore allegiance to the newly-constituted Mexican authorities. Governor Sola continued in the exercise of his official functions of Governor of California, then constituted a new Mexican province, until about the close of the year 1822, when, having been elected a member of the Mexican Congress, he entered on the duties to which he was called at the Mexican Capitol.

By reference to these dates it will be observed, that the presentation of the petition of Peralta for the grant, and all the proceedings exhibited by the papers constituting the expediente, prior to issuing the title paper, which was delivered to the grantee, were had, while the Spanish authorities were in full force, and the grant or title paper itself was issued nearly two years after the declaration of Mexican Independence, and more than six months after the authorities in California had acceded to the new order of things, and while they exercised their offices under the Mexican empire. At the time of the grant, Iturbide, as emperor, held in his hands the power of the Mexican nation.

In order to understand fully the subject of the power of the Governor to make this grant, a brief statement of the history of grants of land in California, and the authority under which they have been made, is necessary.

Upper California seems to have received little attention from the government until after the expulsion of the Jesuits from the Spanish dominions in 1767, after which missions of the Franciscan order were introduced, and their protection secured by establishing Presidios, and maintaining a military force therein. The commandants of the Presidios, as early as 1773, possessed certain limited powers in assigning to settlers small lots in the neighborhood of their command, emanating from the Viceroy of Mexico, in whose hands was lodged, by the ordinance of 1754, authority to appoint subdelegates, with power to make disposition of the vacant lands in the Provinces of New Spain.

2 White, Rec. 62. By a royal order of August 22d, 1776, the Northern and Northwestern provinces of Mexico were formed into a new and distinct organization, called the Internal Provinces of New Spain, separated from the command of the Viceroy, and placed under the government of the Commandant-General of the Internal Provinces. This organization included California, and the most ample powers over every subject, civil, military, and political, were given to the Commandant-General. His instructions contain directions for the founding of towns, the settlement of the country, and the care of missions and the Indians, but no express authority for disposing of large tracts of land is given in the royal order. It clothes him, however, with the full power previously confided to the Viceroy, embracing, of course, all the authority over the national domain which that officer previously exercised. The subject of disposing of these lands in California was not, however, overlooked. Felipe Nove, then Governor of California, was, at the same time, commissioned to draw up and present a plan of a regulation for its disposition. Such a plan was presented by him in 1779, and was approved by a royal cedula of October 24, 1781. This regulation is made in the name of the king, and gives the power to make certain grants provided for therein expressly to *to* Governor. Ex. Doc. (Senate), No. 18–31, Cong. 1, Sess., page 44.

As to the extent of the power granted by this instruction to the Governor of California, there exists some difference of opinion. It is clear, however, that it adopted no system, and gave no power adequate to the settlement of the vast national domain on the Pacific. Its restrictive and narrow provisions relate to small lots connected with the presidios, and the missions, and the small towns which might grow up about them, and not to the concession of large lots for grazing and farming purposes. The subsequent action of the public authorities proves conclusively that such was then the understanding of the Royal Cedula of 1781.

Among the archives of the former Government in California, now in the charge of the Surveyor-General, is a despatch by Pedro Fages, then Governor of California, to the Commandant General of the Internal Provinces, dated Nov. 20th, 1784. In this document he states that several persons having large numbers of cattle had prayed for grants of large tracts of land (sitios), and that he made concessions to them provisionally or temporarily. The Commandant General referred this communication to his legal adviser the assessor, and in accordance with his opinion, he mailed and forwarded to Governor Fages a despatch of June 21, 1785, fully empowering him to make such grants, but limiting the number of sitios which could be granted to one person, requesting each grantee to build a house, and recognizing the common rights for grazing on all ungranted lands. Thus, the order of the Commandant General of California to make grants under such restrictions and limitations as the instructions imposed was, in terms, at least, established in 1786. At the time the last order was issued, the Commandant General, who before had been entirely independent of the Viceroy, was made in some respects subordinate to his instructions. In December, 1786, a few months, only, after the last-mentioned directions to the Governor, all authority of both the Viceroy and the Commandant General of the Internal Provinces, over the subject of the national domain was taken away, and committed to officers denominated *Intendentes* of *New Spain*. California was, however, by the first section excluded from its operation, not being included in any of the Intendencies. 2 White, Rec. 68.

In 1792, the Commandant General was again made independent of the Viceroy, and of the same Royal Decree, California was restored to the Viceroyalty of Mexico, and so continued until the Spanish authorities ceased. An express provision in this decree declares that the Military and Political Governors are under the Viceroy, to be maintained as they are. That the Viceroy subsequently recognized the power of the Governors to concede lands under the instruction of 1786, issued by the Commandant General, is also certain from subsequent documentary evidence.

Among the California Archives is found a despatch to the Viceroy, made in 1793, by Arrellago, then acting Governor of California, stating that no grants had been made by any of his predecessors

agreeably to the authority given by the Commandant General in 1786. The answer of the Viceroy fully recognized the power of the Governors to make such grants. He expresses his surprise at the omission, and requires a report of the causes. Nothing further on the subject appears in the records.

It would seem that grants of land were made by each of the several Governors of California from the time of the instruction of 1776, until the Spanish authority ceased in the country. It is to be remarked of them, however, that during that time they do not purport to grant the lands in full property, and by a clear unconditional title in fee simple, nor are these grants as numerous as might be expected. The causes which have produced this restrictive result, it is not necessary here to mention. It is enough for my purpose to inquire whether the power of making grants, such as were authorized to be made, was vested in the Governor under the decrees above mentioned.

The organization under which the contest for Mexican Independence was carried on, and brought to a successful result, was had under the instrument know as the Plan of Iguala, which was adopted by the Mexican Chief, February 23d, 1821. This document is not merely a declaration of Mexican Independence, but provides a system of provisional government, and declares the principles which shall characterize the future permanent organization of the new nation. The Provisional Government was committed to the care of a Junta, which it was declared, "Shall govern in the name of the laws now in force." The 20th article provides that all the public functionaries, civil, military, ecclesiastical, and political, who adhere to the cause of Independence, shall be continued in office, without distinctions between Mexicans and Europeans. On the 24th of August, 1821, the Treaty of Cordova, which closed the contest, and established the independence of Mexico, was signed, recognizing in terms the Plan of Iguala. The effect of the provisions contained in the 7th and in the 20th article of the Plan of Iguala, was to continue in force the existing state of things in the political affairs of the country, the same laws, and the same officers to perform their accustomed duties under them when not incompatible with the new organization.

In order to dissipate all doubt, if any could remain on the subject, the Sovereign Provincial Junta of Mexico, on the 5th of October, 1821, adopted a decree to establish and confirm all the authorities in the quality in which they now are, and conformably with the Plan of Iguala and the Treaty of Cordova, for the legalization of their exercise of their respective functions. Under these provisions the several functionaries of the government continued in the exercise of their respective duties, administering, as before, the laws then in force, subject only to the restriction which the new political organization necessarily imposed. The administration of the national domain, with a view to the settlement of the country, was no

less important to the new government than to that which was superseded by it, and I think there can be no doubt that the former system was continued by the provisions above cited, and the same officers authorized to administer them.

If this be so, the Governor of California had the right to continue to grant land under the law which was in force at the time of the date of the Plan of Iguala, and of the decree of the Cortes of October 5, 1821.

The laws then in force were provisionally continued in operation. What are these laws on this subject? They are found in the regulation of 1786, committing this authority to the Governor, and if so, he continued in the exercise of the same right to dispose of the land as he had before the Revolution, up to the time when the authorities of the new government legislated on the subject.

It has been questioned whether the authority of the Governor of California to dispose of the national lands, given under the Regulation of 1786, was not taken away from him by authority of the Spanish Constitution of 1812, and a decree of the Cortes under it, made on the 4th of January, 1813. If the Constitution and laws referred to were in force at Malico at the time of the Revolution, and if these abolished the power of the Governor under the former regulations to grant lands, it is clear that the former and not the latter were continued in force. The Spanish Constitution of 1812 was adopted in that country during the absence in captivity of King Ferdinand the VII., and the decrees of the Cortes on the subject of the public domain of Jan. 4, 1813, was passed under it. On the restoration of the king in 1814, he summarily annulled both the Constitution and the decrees of the Cortes. In 1820, the Constitution and all the laws passed under it, were restored in their full vigor throughout the Spanish dominions. They thus became the laws of the land in Mexico previous to adopting the Plan of Iguala, and by it and the subsequent decree of the Mexican Cortes, they were continued in force so far as not incompatible with the Mexican independent organization. That the Spanish Constitution of 1812 and the laws made under it were in force in California after the Revolution, is abundantly proved by the frequent reference to them in the public archives here. The record of the organization of the first Provincial Deputation in California, after the change of government, shows that the members were inducted into ofice by taking an oath to support the political Constitution of the Spanish monarchy, to keep its laws, to be faithful to the emperor.

The decree of the Spanish Cortes, made under the Constitution of January 4, 1813; was then one of the laws which was in force at the time of the Revolution, and has been continued in force as above mentioned. If this law abolished the power which the Governor of California previously possessed to make grants, then it follows that the grant made by Governor Sola to Peralta was without authority,

and its heirs, the present claimants, cannot sustain their claim under it. But an examination of decree of January 4, 1813, convinces me that it does not take away the Governor's authority. That decree was undoubtedly intended to effect an entire change in the land system throughout the Spanish dominions. Its object is declared in the preamble, to be to reduce the common lands to private property, and at the same times to afford relief to the public necessities, rewards the meritorious defenders of the country, and assistance to citizens who as yet possessed no land.

The first article provides that all the vacant or Royal lands (excepting the Commons necessary for the towns), shall be reduced to private property. The second article declares that in whatever mode these lands may be distributed, it may be in full ownership, and in the character of lands with defined boundaries, &c. This section changes from that time, the precarious, conditional, and doubtful tenure of grants under Spanish authority, and provides for the future concession of the full and perfect titles in fee simple. The fourth article is as follows: "The Provincial Department shall propose to the Cortes, through the medium of the regents, the time and the terms most appropriate for conveying this measure into effect in their respective provinces, considering the circumstances of the country and lands, which it may be indispensable to preserve to the towns, so that the Cortes may determine what may be most suitable for each territory. The fifth article declares that this matter is recommended to the seal of the Regency of the kingdom, and of the Ministerial Departments of the Government, that they may promote the execution of the measures, and afford information to the Cortes, whensoever the Provincial Deputation may address propositions to them." This decree authorizes the Ayuntamientos, with the approval of the Departmental Assembly, to distribute small lots in specified cases within their respective jurisdictions, but with this exception, no authority to make grants is given by it. It makes no change in the granting power. It deprives no officer who then had the power to grant of his authority, nor does it bestow such authority on any other. In the United States v. Delespine, 15 Peter's Rep. 309, it was contended that this decree bestowed the power of granting on the Provincial Deputation. The claim of Delespine was based on a testimonial or certificate showing that Arambide, his grantor, applied to the Provincial Deputation at Havana, for a grant of land, on the 4th of December, 1813; that body issued their testimonial to the City Council of St. Augustine, stating that "they grant in property" the land solicited, and commanding said Council to expedite to him the title. And soon after the Council acted on the subject, and issued the grant under which the plaintiff claimed. The Court declined to decide the question whether the decree of the Cortes gave power to the Provincial Deputation to grant land, it not being necessary for the disposition of the case. If the deputation of Havana

claimed the power under the decree to make grants, it does not appear that they regarded the authority of the Captain-General of Cuba, in whom that power was vested before the promulgation of the decree, as abrogation by it. The claim was founded as well on a decree or concession of the Captain-General, dated November 15, 1830, as the testimonial issuing from the Provincial Deputation and the City Council. The testimonial of the concession from Havana, states that the record was made pursuant to the order of the Captain-General and the grantee's petition. The resolution of the City Council also declares that they make the grant in obedience, as well to the resolution of the aforesaid Deputation, as to the approval of the most Excellent Captain-General on the petition of the grantee. There would seem, therefore, to be nothing in the proceedings of the authorities, as disclosed in that case, which implies that they regard the authority of the old officers, who before had the granting power, as deprived of it by the decree of January, 1813. The grant to Arambide appears to be, so far as I have been able to discover, the only instance in which a Provincial Deputation has claimed power to grant, under the decree of 1813; and this case is rendered suspicious by the want of all evidence of it, in the proper record at the office of the principal treasury.—2 White's Rec. 378.

The decree of 1813 evidently contemplated a radical change in the method of disposing of the public domain. This change was to be made at a future time by the Cortes. Information was desired with a view to that change, and the Provincial Deputations were required by the article to devise the most convenient means of making grants, and the same were to be reported to the Cortes by the Secretaries of State for their recognition and adoption; and until the future action of the Cortes was had, the authorities then exercising the granting power continued in the exercise of their functions. Such seems to me to be the true spirit of the decree, and no decision of the Courts, and no well-authenticated practice under it, impairs this view of the subject.

There is one portion of the decree, which seems, by its terms, to be intended to have immediate effect on grants, to be made after it was promulgated; such future grants, it was declared, should all be in full ownership. The method of obtaining the title then adopted, the system of obtaining the concession from an inferior officer, and subsequently procuring a confirmation by his superior, was not changed; but when the title was finally obtained, it was required to be one which invested the grantee with the full and unrestricted property and ownership. It is, perhaps, attributable to this change in the law, that we find the grant in this case, as well as some others made about the same time, purporting to concede such a title. I have examined the grants made by the Governors of California, prior to the time when this decree was re-enacted, in 1820, and after sufficient time had elapsed for it to become known here; and I have found

none which purport to grant anything but a qualified or restricted right in the premises described, partaking the characteristics of mere temporary occupancy, rather than a permanent title to the premises. The grants made subsequent to the Mexican Revolution, which occurred immediately after the Spanish Constitution of 1812, and the decrees under it were restored to power, partake of the character of titles, as described in said decrees, and are evidently designed, when finally ratified, to make the grantee the owner of a perfect title.

From this view of the state of things it follows that at the time the grant was made to Peralta by Sola, in 1822, the granting power of the Governor, such as it was, under the instructions from the Commandant-General of 1786, continued. The character of the title to be conceded may have been changed by the decree of 1813, and the capacity to exercise the granting power remained as it was before in him.

The granting power of the Governor of California was in no sense a power to perfect a title in the grantee; such a supposition would be at variance with all the well-known principles of Spanish land distribution. The first concession by inferior officer was inceptive; only a higher power was required to approve, in order to complete the title under the ordinance of 1754. The Viceroy and President of the Royal Audiences had full power to appoint sub-delegates, judges, to dispose of the national land, and their grants were required to be confirmed by the Audiences. The ordinance of August 22, 1776, establishing the Commandancy-General of the Internal Provinces of New Spain, gave to its chief officer, within his province, the powers possessed by the Viceroy under former laws. This power was sufficiently broad, in my opinion, to enable them to appoint sub-delegates, as provided in the ordinance of 1754, to take the initiatory steps in making grants of land. In the instruction of the Commandant-General of June 4, 1786, to the Governor of California, although he is not designated by the name of sub-delegate, with the authority to make concessions, is designated by express terms, he is required to perform the duty in this respect imposed upon that officer. After the authority of the Commandant-General was superseded, and the Californias again became subject, as before, to the Viceroy of Mexico, the power of the Governor, as we have already shown, was continued in full force, and his jurisdiction to make incipient grants recognized.

The letter from the Viceroy before cited, seems to imply at least that the Governor was expected still to act under that order; such appears to have been practically the understanding of all, I think. There can be little doubt that the Spanish Government regarded the concessions of the Governors as incipient proceedings, which would entitle the grantee in due time to a title. When the Spanish dominion gave place to the Mexican Independent Government, the grants of the Governors of California which had never been confirmed, were incomplete and equitable titles. They required the confirma-

tion of the superior confirming power, but when that power itself ceased under the new state of things to exist, further action on the part of Mexico was required to perfect those titles. We have no evidence of any provision for a confirmation of these titles. The Mexican Congress succeeded to the general power of disposing of the public lands. Their first permanent act was the law of August 18th, 1824, and the instructions of 1828 made under it, completed the practical system under which grants continued to be made in California, until the cession of the Territory. This system confided to the Governor the power of granting, with the approbation of the Departamental Assembly, the National Domain, on certain conditions, but it gave him no authority to confirm the equitable title of a person who held an incipient and incomplete title under the concession made by a Governor under the Spanish rule.

The Governor, after their adoption, could grant only according to the regulations of 1828, and his own grants required the confirmation of the Departamental Assembly. He had no confirmatory power in any case, much less the power of confirming a grant issued by the authority of the former government. The holder of such an incipient grant then had but two remedies, one was an application to the Congress at Mexico, for a confirmation of his title, the other was an application to the Governor of the Province for the grant of his land. In almost all the cases of ancient concessions which have been filed before this Commission, such applications were made and grants issued by the proper authorities under the regulations of 1828. The conditions imposed by those regulations on new grants were required in such cases to be complied with, but where there was actual occupancy or cultivation under the old concession, and the claimant still held the land in possession, a mere continuance on the place constituted a compliance with the conditions imposed on the new grant under the law of 1824, and the regulations of 1828.

The Colonization Law of 1823 clearly shows, in my opinion, the recognition of those equities as against the Mexican Government after the revolution. But the failure of the Mexican Government subsequently to provide for settling these titles, and confirming such as were meritorious, did not destroy the right to, although it delayed the obtaining of, the perfect title. The conscience of the Mexican Government was, at the time of the cession to the United States, charged with the ratification of such ancient equitable grants, and the latter assumed the obligation. This obligation is recognized in the provision of the law of 1841, authorizing this Commission to hear and determine claims founded on Spanish grants. To entitle such a claim to confirmation, however, it must appear that the party has not forfeited his equitable right under the original concession, which must also be shown to be of such a character as would have bound the conscience of the Mexican nation.

The Supreme Court of the United States have in several cases

presented the views of that high tribunal on the subject of rights of this character, in accordance with the principles above expressed.

It is not necessary here to institute any inquiry as to which of the superior authorities of Spanish authorization had at different times the power of confirming such incipient grants. It is enough for the purpose of founding an equity upon them to show that they had their commencement in the act, are competent to make a concession which others might carry into a perfect grant. Nor is it necessary to inquire whether at the time this grant was made the new order of things growing out of the revolution had not so deranged the ancient official machinery or so complicated its operation as to require further action by the new government before such titles could be perfected. Embarrassments of this character necessarily arise in the great changes incident to a revolution. It was to avoid them as far as possible that the former laws and the official functions under them were continued in force by the Plan of Iguala and the subsequent decree of the Mexican Congress on the subject. To declare now that the acts of public officers done under them in the exercise of their legitimate functions, not inconsistent with the new order of things, would be to disregard a provision of the law intended to obviate the anarchy threatening such a change, and to secure, ad interim, the interests of the community. From the views which I have above presented, the conclusion follows that a grant made by the Governor at the time that before us as appears to have been issued, should be regarded not as a legal but as an incipient title, which this Commission must consider as an equity under the treaty and the act of March 3, 1851.

I recur now to the documents in the case in order to determine what in fact was granted to the father of the claimants by Governor Sola. The grant itself, issued to the grantee, dated October 18, 1822, has already been cited. This is the only document issued by Sola to Peralta. This is the title paper which shows what premises were granted, and the terms on which the concession was made. This grant describes the land according to the boundaries designated by Martinez, in his return to the second order, to put the party in possession. Under the first order he embraced within the limits as returned by him, a portion of land on the north end of the premises which was claimed by the Mission of San Francisco. When this return was presented to the Governor, in an order reciting the allegation that Martinez did not fulfil his former decree, and that through his fault possession had been given to Peralta of some lands belonging to the Mission, he directed the lands of the Mission to be withdrawn and still be retained by the Mission. A new return of Martinez was made, filing the boundaries of the land given to Peralta so as to exclude the Mission lands. The grant follows these boundaries.

The petitioners claim that the portion of the land thus declared to

belong to the Mission, and not embraced in the description contained in the grant, nevertheless passed by virtue of the proceedings and documents to the grantee. I cannot accede to this view of the subject. The order of the Governor, dated August 3, 1820, is the only document on which such a claim can be founded, but this document does not purport to be a grant of land. It is an order by the Governor to the Commandant of the Presidio to appoint an officer or sergeant to put said Peralta into possession of the land, and to make return thereof to the Governor for his further consideration. The officer was required to give notice to the Reverend Fathers, the missionaries bordering on said land, and to place landmarks defining the extent of said premises. While this order indicates the intention of the Governor to make the grant to the applicant, it also shows that the particular boundaries and extent of the premises were yet to be filed, and that he would not make the grant until these were determined by an actual examination of the premises by a competent person, when all interested might be present, and a report received as to the limits and monuments, so that they might be described in the grant. The system of giving official possession by a juridical officer seems not to have been in practice at this early period in California. If it had then obtained the grant would probably have been issued, and the demarcation of the lines be afterwards made by an Alcalde or Judge authorized by the law to adjudicate conflicting claims of the neighboring landholders, and to make a record which would afford imperishable evidence of the limits and landmarks.

The Governor adopted the only judicious course to accomplish the same object. A competent person was sent to ascertain all the facts necessary to enable the Governor to know what he could grant without detriment to conflicting claimants, to put the party in possession and to give the necessary description of boundaries to be designated in the grant. Until this report was made no grant was issued to the party, and, although put in possession of the premises, it was of course subject to such limitations, as to the extent of the premises, as the Governor might make in the return of the measurement. The Lieutenant who gave the possession had no juridical power to determine questions which might arise in conflicting claims to the land. The Governor only could settle these questions.

It is alleged, that the premises in question, were granted by the first order, for giving possession, and taken away by the second. But I think it evident that the intention of the first order was not to embrace any lands within the grant which were claimed by the Mission. The Lieutenant who gave possession was required, by the terms of the order, to notify the Fathers of the Missions, "bordering on said lands," with the view evidently of limiting the premises intended to be conceded so as to embrace lands claimed by them. It does not appear whether the Fathers of the Missions of San Francisco were notified of the proceedings, but the claim of that mission to the

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portion of the land in controversy was very soon after the return of the officer presented to the Governor. If the Mission had a just claim to the land, it was contrary to the custom of the country and to every principle of justice, to confer a title to it on another. The terms of his prior order, under which the first possession was given, showed that no such land was intended to be embraced in the grant to Peralta. He had not then issued any grant to Peralta, and it was fully within his power to exclude it from the premises claimed by the Mission. The applicant filed his remonstrance against the claim of the Mission, accompanied by a letter from the Commandant of the Presidio, and that both parties were heard before the grant was issued to Peralta. As to the justice of the claim of the Mission to the premises, it was the province of the Governor to determine that question, and from his decision there was no appeal.

The portion of the premises in controversy, then, never passed to Peralta by the action of Governor Sola, until the grant of Oct. 18th, 1822. He acquired no title to any of the premises, and he can hold under it only the land described in the grant by metes and bounds. The petitioner also claims the portion of land above-mentioned, which was embraced in the first act of possession and excluded from the second, by virtue of proceedings subsequently had before Governor Arguello, who was the successor of Governor Sola. This claim of title rests on an original document duly authenticated, which is given in evidence, and contains—first, a petition of said Luis Peralta to the Governor, dated May 15, 1823; second, an order thereon, signed by the Governor, and dated June 30, 1823; and third, a document signed by Ignacio Martinez and two assisting witnesses, showing that said Luis Peralta had been restored to the possession of the portion of land in controversy under the Governor's order above-mentioned. This return is dated Dec. 4, 1824.

Do these documents show a grant of the land by Arguello to Peralta? The petition alleges that a grant of the land in question had been made to the petitioners by Sola; that he had been put in possession under his grant; that the Mission had claimed the portion of the premises which was now in question; that the Governor had decided the question in favor of the Mission; and under his decree, to that effect, the petitioner had been dispossessed of the premises. He does not apply to Arguello for a grant of the land; he alleges himself to be the owner under the grant from Sola, and complaining of the unjust decree by which he had been deprived of property already his own, he solicits the Governor to direct the said land to be restored to him. The decree of Governor Arguello is of the same tenor. It is in the following words:

Monterey, June 30, 1823.

Let the land, which by order of my predecessor, Col. Don Pablo Vicente de Sola, was taken from this claimant after having been granted him and given him possession thereof, be returned to him.

He shall apply with this decree to the Judge then commissioned for the said possession, that he may comply with it. When this be done he shall annex all the proceedings to the expediente already referred to.

ARGUELLO.

This is not the language of a grant. It assumes as true the allegation contained in the petition, to wit, that Peralta was the owner under a grant from Sola, and had been unjustly dispossessed. The decree concedes the aid of the executive, which was invoked to restore the petitioner to the possession, but it contains no words implying that it is a grant of title. This was neither asked nor granted. The decree is a mere order to restore to the grantee the land which he alleged was covered by his grant, and it is nothing more. The execution of the order restored the claimant to the possession, but gave no additional title. His right to the land then, as before, rested solely on his claim to it under the grant made by Sola, which we have already seen did not embrace the premises in controversy. He remained after the action of Arguello as he was before, without title to this portion of the land.

It has been suggested that the title of Peralta was confirmed and legalized by the first Colonization Act under the Mexican Government, which was promulged January 3, 1823. This act, a translation of which is found in White's Recap. 588, was suspended soon after its adoption, and has never been revived. It was in force only about three months. White's Rec. 594. It is alleged that the 10th section, which provides that establishments made under the former government, which are now pending, shall be regulated by the law in all matters that may occur, but those that are finished shall remain in that State, recognized and confirmed the title of Peralta.

But what estate was confirmed by it?

If in view of the action of a superior authority required to confirm the grant, the case must be regarded as been still pending, the law merely required the future proceedings to perfect the title to be in accordance with its provisions. The proceedings before Sola, however, had been brought to a termination so far his action was concerned, and the title paper of the 18th of October, 1822, the only one issued by him in the matter, had been delivered to Peralta. If the provision of the 16th section applied to the case as one which was finished, it confirmed the land as described in the grant, and nothing more. It would be absurd to allege, that a decree declaring that "those that are finished shall remain as they are," could reverse a final grant, and substitute for it another which the granting officer had expressly refused to make. No aid then in any event could be derived from this provision of the law to strengthen the title of Peralta in that portion of the premises which was restored

to the Mission. As to the claim of rights under the decree of Arguello, which was made on the 30th of June, 1833, nearly three months after the law became inoperative, by the decree suspending it, the provision referred to could of course have no application.

In addition to the testimony relative to their title, above-mentioned, the claimants have added to their documentary evidence a true copy of an espediente from the archives of the former government, showing certain proceedings in regard to the title to the lands in question before Governor Micheltorena.

This espediente contains a petition of Ignacio Peralta, alleging a grant by Governor Sola to his father, Don Luis Peralta, of the premises now claimed by the petitioners, and the possession of the land by him under the grant. He asserts that the title papers have been mislaid, and prays the grant of a new title to his father. The petition is dated February 11th, 1844. On the next day the Governor made an order for a report on the subject from the Secretary, and under the same date follows the Secretary's report, and a brief order of concession, signed by Governor Micheltorena, and a more formal order of the same import, having no signature.

We have had occasion in several cases heretofore adjudicated, to decide that such an expediente is no evidence of a grant of land. The title paper issued to the party, and not the record of the proceedings preliminary to it, constitutes a grant. After all the proceedings contributed in this record, the approval of the Assembly, or where that was refused, of the supreme executive, might be refused, and the grant be thereby defeated, and even if obtained, the Governor might still withhold the title.

The claimants have produced no grant or title papers from Micheltorena. Their proof on this point establishes therefore no title in them derived from him, nor in my judgment is any presumption raised from these documents in favor of the claimants, in regard to that portion of land which Governor Sola declined to embrace in the grant made by him.

I need not repeat the inquiry whether the Governor had power to confirm an ancient title by the new decree of confirmation of a written grant; assuming that he had such authority, the evidence of his satisfaction with the merits of the application would be proved by issuing the grant prayed for in the petition. If, after the record now presented was made up, no grant was in fact made, the presumption is, that it was arrested by the granting power, on conviction of the impropriety of making it. If it was in truth issued, it was placed in the hands of the claimant under it, and its new production here or proof of its contents if lost, obtrudes upon us the legal presumption, that if produced, its terms would be found to be such as not to aid the claim under consideration. In additional strength to the claimant's case, appears to me to be given by these documents.

The will of Luis Peralta, the original grantee, is given in evidence,

by which it appears that the property devised by him to his four sons the claimants, now before the Commission, to hold their respective interests in severalty, according to a division made among them in his lifetime. No controversy between them as to their respective portion has arisen, to require our consideration or embarrass the adjudication.

There are several extraneous matters introduced into this case, and much testimony of a minute character presented, which it will not be necessary in the view which I take of the case, particularly to consider. I have deemed it proper to examine the question of the power of the Governor of California under the Spanish rule, and to consider the effect produced upon that power by the law of the Spanish Cortes of 1812, and the subsequent Mexican revolution. It is a most difficult subject to investigate. Spanish and Mexican decrees, locked up in a foreign language, and seldom concise or clear in their meaning, often hold the mind in doubt of their true exposition; and to this that they are nowhere collected together in a body, that many were never printed, that they are to be sought often in the neglected files of public offices, or found only among the scattered sheets of archives that have been more than once the subject of revolutionary invasion, and that difficulty is greatly increased.

It is subject of regret, that the counsel for the claimants in this case have given no light on the subject of the laws, decrees, and instructions which lay at the foundation of the claim presented. It is the duty of counsel to investigate the great questions arising in their case, to present the law, and to give the adjudicating tribunal the benefit of a careful and thorough and zealous investigation in behalf of their clients.

Without it, the duty of examination is thrown upon the Court, in which they are entitled to the aid of another, and which they cannot command the time to perform consistently with other imperious duties.

In accordance with these views, decrees will be entered in the three cases, confirming the title to the premises according to the description contained in the grant made by Sola, on the 18th of October, 1822, and giving to the respective petitioners in each, his proper portion of the land, and respecting the claim to the other portion of the land claimed.

Filed in office, February 7, 1854.

(Signed) GEO. FISHER,
Secretary.

Decree.

VICENTE PERALTA, and DOMINGO PERALTA,
v.
THE UNITED STATES.

In this case, on hearing the proofs and allegations, it is adjudged

by the Commission, that the claim of the said petitioners is valid, and it is therefore decreed that the same be confirmed.

The land of which confirmation is hereby made, is a portion of the land known by the name of the San Antonio, situated in Alameda County, and is bounded as follows, to wit:—On the south by a ravine a short distance south of the buildings, in the town of Oakland; on the north of which ravine, there is a small house in sight of the public road, being the line of division between this land, and the land of Antonio Peralta, and the northern boundary of the land this day confirmed by a decree of this Commission to said Antonio Peralta: on the west by the Bay of San Francisco; on the east by the mountain range, extending nearly parallel to said bay, and being the nearest range thereto; and on the north by a small stream (arroyito), which issues from the Sierra or high hills (lomerias), and running to the shore of said bay, where ends a small willow grove; the said northern boundary being about one and a half leagues from the Cerrito of San Antonio, in the direction of San Leandro. The said premises hereby confirmed, embrace that portion of the said place called San Antonio, comprised within the above-mentioned boundaries, which is assigned to said Vicente and Domingo Peralta, by a stipulation entered into by the attorneys of said Vicente and Domingo and their brothers, Antonio and Ignacio Peralta, for the assignment of their respective portions of said place called San Antonio, a copy of which stipulation is hereby attached, and made a part of this decree, and this confirmation is made in favor of said Vicente and Domingo, confirming to each of them, the portion of land embraced in the above-described premises according to said stipulation, each to hold his portion thereof in severalty, according to the division therein specified; but neither of them to hold any land beyond the limits first above specified in this decree.

And as to the portion of the land claimed by said petitioner, which is not covered by the description above given of the land hereby confirmed, it is adjudged by the Commission that the claim of the said petitioners to the same is not valid, and it is therefore decreed that the same be rejected.

ALPHEUS FELCH,
THOMPSON CAMBELL,
R. AUG. THOMPSON,
Commissioners.

Filed in office, February 1, 1854.
(Signed) GEO. FISHER,
Secretary.

Stipulation.

In the Matter of the Peralta Claim.

It is agreed between the claimants, the southern part of the rancho

is the land that was given to Ignacio Peralta, and extends to a small dry creek, bounding the land of Antonio Peralta; that going north the second part is that of Antonio Peralta, which extends to the lands of Vicente Peralta, and a short distance south of the buildings in the town of Oakland, being a ravine, on the north of which there is a small house in sight of the public road; the land of Vicente Peralta extends to the land of Domingo Peralta, who owns the northern portion of the rancho, and to the most northern limits. These dividing lines extend from the bay to the most eastern boundary of the rancho.

(Signed) JONES, TOMKINS & STRODE,
For ANTONIO and IGNACIO PERALTA.
(Signed) IRVING & ROSE.

I, George Fisher, Secretary of the Board of Commissioners to ascertain and settle Private Land Claims in the State of California, do hereby certify that the foregoing is a true and correct copy of a stipulation on file in this office, in Case No. 4, and in my care and custody as such secretary.

Given under my hand, this seventh day of February, A.D. 1854.

(Signed) GEO. FISHER,
Secretary.

Filed in office, Feb. 7, 1854.

(Signed) GEO. FISHER,
Secretary.

Dissenting opinion of Commissioner R. A. Thompson in the Cases No. 273 & 274.

IGNACIO PERALTA and Others
v.
UNITED STATES.
} In the place, or Rancho, called "San Antonio," in the County of Contra Costa.

The petitioners claim title to the land in question by virtue of a donation and a division of the same, made to them by their father, Luis Peralta, deceased, in his lifetime, which donation and division was subsequently ratified and confirmed by him in his last will and testament, duly probated and recorded in the County of Santa Clara.

The original petition, filed in Case No. 4, was in the name of the four petitioners above-named, who claimed the land jointly, and set forth, that the rancho of land, called San Antonio, was granted to their father on the 16th August, 1820, Don Pablo Vicente de Sola, political and military Governor of California, and as such duly authorized to make grants of land. That the quantity of land contained in said rancho is not known; it being granted by natural bounds. That they, and their father before them, had long and uninterrupted possession of said rancho.

Subsequently, by an order of the Board, the names of Antonio

Peralta and Ignacio Peralta were stricken from the petition, in Case No. 4, and they were allowed to file and rest their claims on their separate petitions, in Cases No. 273 & 274, for their respective portions of said rancho or tract of land, answering to the donation and division made by their father in his lifetime, and confirmed by his last will and testament.

The said order also authorized the evidence taken in No. 4 to be used, so far as applicable, in all the cases. The petitioners in Nos. 273 & 274, in addition to the evidence of title set forth in the petition in No. 4, assert, that the said grant of Don Pablo Vicente de Sola was subsequently respected, confirmed, and renewed by the Mexican Government, which succeeded that of Spain in the sovereignty of the country. That their father was put in possession of the land by the proper authority, and that he and the petitioners have enjoyed the same without interruption ever since. Upon the hearing of No. 4 it was agreed, between the United States Law Agent and the counsel for the claimants, that the three cases should be heard, examined, and considered together; and by an agreement filed with the papers it is stipulated, that the petition shall be so construed, as to ask for a separate decree for each claimant, according to the division made by their father, Don Luis Peralta, and confirmed by his last will and testament.

And the stipulation is also made and filed by the counsel representing the parties claimant, in which the location of the respective portions claimed by each is agreed upon.

The documentary evidence filed in support of the claimant consists: First. Of a true copy from the Archives in the Office of the Surveyor-General of California, containing so far as they are material in the present inquiry, the following averments:

First. The petition of Luis Peralta to the Governor for a grant of land, extending from the Creek of San Leandro to a small mountain adjoining the sea-beach, at the distance of four or five leagues, for the purpose of establishing a rancho, dated June 20, 1820.

Second. The decree of Governor Sola, therein directing Captain Luis Antonio Arguello to appoint an officer to place the petitioner in possession of the lands petitioned for, dated Aug. 3d, 1820.

Third. Order of Captain Arguello, dated August 10th, 1820, detailing Lieutenant Don Ignacio Martinez for that purpose.

Fourth. The relinquishment of Father Narciso Duran, on behalf of the Mission of San Jose, of any claim to the land, and reserving the privilege of cutting wood on the same, which, he says, should remain in common, dated Aug. 16th, 1820.

Fifth. Under the same date, the return of Lieutenant Martinez, upon whom the order to give the possession, describing the boundaries, &c.

Sixth. The decree of the Governor, directing a portion of the lands assigned to Luis Peralta by the foregoing act of possession to

be withdrawn, upon the reclamation of the Mission of San Francisco, who claimed that the said portion of the lands was then in the occupancy of the Mission as a sheep ranch.

Seventh. The consent of Father Juan Cabot and Paloz Ordez, Ministers of the Mission, that the boundaries of the land solicited by Luis Peralta should be established at the rivulet, at the distance of three and a half to four leagues from the rancho-house of the Mission.

Eighth. The return of Maximo Martinez upon Governor Sola's second decree, for the delivery of possession, filing the boundaries in accordance with the claim of the Mission, at a rivulet which runs down from the mountains to the beach, where there is a grove of willows, and about a league and a half from the Serito (little mountain) of San Antonio, in the direction of San Leandro.

Ninth. A document, dated October, 1822, and signed Sola, setting out, that on that day was issued in favor of Sergeant Luis Peralta, by the Governor of the Province, the certifying document for the land which has been granted him, as appears by the writ of possession which was given him by the Lieutenant of his Company, Don Ignacio Martinez, in conformity with the orders of the government.

Tenth. A letter from Luis Peralta protesting against the claim of the Mission, dated October 14th, 1820.

Eleventh. A representation from Captain Don Luis Arguello to the Governor, dated June 23d, 1821, advocating the rights of Sergeant Peralta in opposition to those of the Mission, to the land in controversy, and lastly, the description of the land returned by Luis Peralta in obedience to the order of the Government of the 7th of October, 1827.

The claimants also offer in evidence the original grant from Governor Sola, dated 18th August, 1822, to Luis Peralta. The petition of Luis Peralta to Governor Arguello praying the restitution of the lands which had been taken from him on the demand of the Mission. The decree of Arguello making such restitution, and directing him to be again put in possession by some officer, who had executed the former act of possession, and the return of Maximo Martinez, duly signed by himself and his assisting witnesses. Upon this last order, certifying that the grantee had been newly put in possession of the place called Cerito de San Antonio, and the rivulet which crosses the place to the coast, where is a rock looking to the north. The genuineness of all the above-mentioned original papers, and the signatures to same, are fully proved by the depositions of Mariano G. Vallijo, Salvio Pacheco, Jose de los Santos Berreyeza, and Jose de la Rosa, &c. Another traced copy from the archives is also filed in case containing the record of the proceedings of the civil and military authorities of California, by which, on the 9th day of April, 1822, they declared their formal recognition of and adhesion

to the new government of Mexico according to the Plan of Iguala and the treaty of Cordova. Also a traced copy from the archives showing the proceedings of the government of California on the petition of Ignacio Peralta, dated February 11th, 1844, praying, in the name of his father, for a new title to the land claimed, in consequence of the original title-papers having been lost or mislaid. A traced copy from the book of titles is also found in the file, stating that on the 14th of February, 1844, a title was issued to Don Luis Peralta for the place called San Antonio, but as the parties declined offering it in evidence, it cannot be considered as properly before the Board. An English translation of the last will and testament of Luis Peralta was filed on the 31st of May, 1852, and a copy of the same in the original on the 17th June, 1852. Another copy of said will, with assent of the associate Law Agent of the United States endorsed thereon, and with the proceedings of the Probate Court of Santa Clara County, California, annexed, duly certified by the Clerk of said Court, with his seal of office attached, has been filed in the case, since it was submitted to the Board.

The above embraces all the documentary evidence which has been presented in support of the claim, so far as it is deemed material. A large number of depositions have been taken in the case, which will be considered in connection with the questions to which they relate, as they arise in the progress of the examination.

It appears, from the papers in the case, that an intervening petition was, by leave of the Board, filed by Juan Jose and Victor Castro for a portion of the land contained within the boundaries claimed by the original petitioners. By a subsequent ruling of the Board, the order allowing the intervention was rescinded, and the petition dismissed, but as a portion of the testimony taken in support of the Castros' claim was accepted by the Law Agent, and submitted in behalf of the United States, on the hearing, it may be proper, before proceeding to the investigation of the questions properly presented in the case, to consider the effect of the evidence upon them, and what influence, if any, it ought to have upon the final decision of the Board. The petition to intervene, appears to be founded on a document, a translation of which is filed in the case, purporting to be a petition from Juan Jose Castro and Victor Castro, dated 22d of April, 1841, praying for a grant of the vacant land which is situated on the immediate limits of San Antonio, San Pablo, Pinole, the Rancho of Valencia, and the farm of Moraga, which land is the overplus (sobrante) of these Ranchos. On this petition there is a marginal decree of Governor Alvarado granting them the land as prayed for, but placing them under an obligation to present themselves anew, accompanied by a map of the land, so soon as the boundaries of the neighboring landowners shall be regulated. The original of which the abovementioned paper purports to be a translation, is not before the Board; there is, therefore, no evidence of even the incipient or inchoate con-

ditional right upon which the intervening claimants founded the claim, nor is there any evidence that they ever had possession, or occupied any portion of the land within the limits claimed by the original petitioners; on the contrary, the only evidence of occupation by them under this claim, was beyond or east of the same, and consequently outside of these limits. But, even if the original document was before us, duly authenticated and proven, it is not perceived that it would have any bearing, or in any way influence the Board in their final adjudication upon the cases now under consideration.

The petition prays for the vacant land on the immediate limits, or in other words, outside of the rancho of San Antonio, and the Governor in his marginal decree makes no definite grant of any land, but a mere hypothetical or conditional concession, to be perfected or carried into grant, whenever by the establishment of the boundaries of the ranchos named in the petition, the existence of such vacant lands should be ascertained, and the parties should present themselves anew, a map showing their extent and boundaries. It does not appear that any subsequent survey or settlement of the boundaries was ever had; until that was done it is very clear that under the Governor's decree of concession no right could vest in the Castros, and then only to such lands as were outside of the limits, which might have been filed to said ranchos, or were contained in the sobrante or overplus, resulting from such establishment of their boundaries. The evidence, therefore, which has been filed in support of the intervening claim and offered on behalf of the United States in these cases, cannot be considered as affecting the questions involved in them, except so far as it may aid in ascertaining the true extent and boundaries of the land claimed. In the examination of this case, there are two material points presented for our consideration, the first is, whether the title upon which the claim is founded is valid and entitled to a confirmation, according to the rules prescribed for the government of the Board, the act of Congress of the 3d of March, 1851; and secondly, if so, what is the extent and boundaries of the land to which the claimants have shown themselves to be entitled.

The first question necessarily involves an inquiry into the authority of the Governors of California under the Spanish government, or that of Mexico, which immediately succeeded it, to make grants of land prior to the passage of the law of the 18th of August, 1824, and the issuing of the regulations of November 21st, 1828. I have not thought it necessary to go back through the long and obscure maze which is presented by the various decrees, orders, and regulations of the Spanish Government on this subject.

The question as to the authority of a public officer making the grant or other evidence of claim to lands is so fully discussed, and the rules of law which govern it so clearly laid down by the Supreme Court of the United States in the case of the United States *v.* Are-

dondo et al., reported in 6th Peters, and reaffirmed in other cases, that it can scarcely be considered an open question. In that case, after an examination of the grant or title paper, upon which the claim is founded, the Court say it is at least prima facie evidence of a grant of the land it describes; the rules of law gives it this effect, and it must be so considered. 6th Peters, 721.

They there enter in a full examination of all the laws of Congress in relation to Spanish grants in Louisiana and Florida, and arrive at the following conclusion,—that the authority of the officer making the grant or other evidence of claim to lands, formed no item in the title it conferred. That the United States never made that a point in issue between them and the claimants to be even considered, much less adjudicated. They have submitted to the principle which prevails as to all public grants of lands or acts of public officers in issuing warrants, orders of survey, permission to cultivate or improve, as evidence of inceptive or nascent titles, which is, "That the public acts of public officers, purporting to be exercised in an official capacity and by public authority, shall not be presumed to be an usurped but a legitimate authority previously given or subsequently ratified, which is equivalent. To adopt a contrary rule, the Court say would lead to infinite confusion and uncertainty of titles and possessions; to apply such a principle to the various papers which are sent from the general or local land offices, as instructions to officers under their direction, or to the evidence of incomplete title to lands by requiring any other evidence of the authority by which it was due, than the signature of the officer, the genuineness of the paper proved by witnesses or authenticated by an official seal, would be not only of dangerous tendencies, but an entire novelty in our jurisprudence, or as rule of equity, or evidence, or principle of law, or justice. They then refer to the judicial history of the hundred controversies under the land laws of Virginia and North Carolina, as construed and acted upon in these States, and others formed out of the lands ceded by them to the United States, and in Pennsylvania, whose land tenures are similar, as showing the universal adoption of the rule. That the acts of public officers in disposing of the public lands by color or claim of public authority are evidence thereof, until the contrary appears by the showing of these who oppose the title set up under it, and deny the power by which it is professed to be granted. Again, in reference to grants made by the Colonial Governors before the Revolution, they say that such grants have always been, and yet are taken, as plenary evidence of the grant itself, as well as the authority to dispose of the public lands. Its actual exercise without any evidence of disavowal, revocation or denial by the King, and his subsequent acquiescence and presumed ratification, are sufficient proof, in the absence of any to the contrary, of the royal assent to the exercise of this prerogative by the local governors. This or no other Court can require proof that there exists in any government a

power to dispose of its property; in the absence of any elsewhere, we are bound to presume that it exists in the officers or tribunal who exercise it by making grants, and that it is fully evidenced by occupation, enjoyment, and transfers of property, had and made under them without disturbance by any superior power, and respected by all co-ordinate and inferior officers and tribunals throughout the State, Colony, or Province where it lies. It is true that a grant made without authority is void under all governments: 9th Cr. 99; 5th Wh. 303; but in all cases the question is on whom does the law throw the burden of proof, as to the existence or non-existence of the authority? A grant is void, unless the grantor has power to make it, but it is not void because the grantee fails to prove or produce the authority. This proof the law supplies by legal presumption arising from the full, legal, and complete existence of the official grant.

A patent, under the seal of the United States or of a State, is conclusive proof of the act of granting by its authority; its exemplification is a record of absolute verity. 5 Peters, 241. I might multiply extracts illustrative of the views of the Supreme Court on these questions, but it is scarcely necessary; from those already given it is perfectly clear. 1st. That a grant of land made by a public officer, under color and claim of public authority, duly executed and proven, must be considered as sufficient evidence of his power to make such grant, unless the contrary is shown. 2d. That the failure of the grantee or those claiming under him to produce or prove such power, is no evidence that it does not exist; but its non-existence must be distinctly proven by the party opposing the title set up under the grant.

I will now proceed to examine the title presented by the claimants in these cases, with reference to the principles laid down by the Supreme Court as shown above.

It appears from the traced copy of the original expediente, that on the 20th of June, 1820, Luis Peralta, Sergeant of the Presidio of San Francisco, petitioned Don Pablo Vicente de Sola, then Governor of California under the authority of the King of Spain, for a grant of the land now claimed. On the 3d of August following, Governor Sola issued his order directing him to be placed in possession of the land prayed for in his petition, which was accordingly done, as appears by his return by Ignacio Martinez, filing as the boundaries the Creek of San Leandro, and at a distance of about five leagues the rivulet (arroyito) which issues from the mountain range and runs along the foot of the little mountain (Cerito) of San Antonio, to the bay. On the 20th of the same month, however, the Governor issued a new order, recognizing the claim of the Mission of San Francisco, to the possession of a portion of the lands which had been assigned to Luis Peralta, and directing a new act of juridical possession, filing the boundaries in accordance with the reclamation of the fathers

ministers of the mission. In accordance with this new order, the same officer again gave the possession, but established the northern boundary at a rivulet, which issued from the mountains and entered the sea at willow grove, one and a half league south of the Cerito, where it had been originally filed. On the 18th of October, 1822, Governor Sola issued to the petitioner a formal title, or as it is termed in the expediente, a certifying document, for the land according to the boundaries settled by the second act of juridical possession, declaring that the land had been granted him in the name of the King of Spain, in consideration of his petition of the 20th of June, 1820, and of forty years' honorable service in the military career, and that said document was given him as evidence, for all time, of the concession or grant that has been made to him.

To this document it is objected that it conveys no legal title to the grantee. First, because the Governor had neither under the Spanish or Mexican Governments the power to make grants of this description; and second, if he possessed such authority, it was not to make grants in full property, but only for a right of temporary occupation.

As to the first objection, it is very evident, from an inspection of the paper itself, as well as the preliminary action of the government, that it possesses all the essentials of a public grant or title deed of the land it described. The missions which held the adjoining lands were duly notified, their representations were heard, considered, and acceded to, and, in accordance therewith, the party placed in the possession of the land by metes and bounds, by an officer specially assigned to discharge that duty.

The formal grant and title paper is then issued to the party by the chief officer of the province or territory, acting in his official capacity as political and military governor of New California; it declares that the land had already been granted to him in the name of the King of Spain, in consideration of his long and meritorious military services, and the document itself was given to serve for all time as evidence of the same.

No evidence whatever has been introduced to show that the Governor did not possess the power to make such a grant, or that such power existed in any other officer, except what may be derived inferentially from the failure of the claimants to show any express delegation of such power. This the Supreme Court expressly declared to be insufficient. That the act of granting by claim or public authority receives a legal presumption of the existence of the power to grant, which must be rebutted by positive testimony to the contrary before it can be successfully controverted. In the absence, then, of any such proof in the present case, we are bound, in my opinion, under the rules laid down by the Supreme Court, to consider the grant by Gov. Sola as the act of a public officer, disposing of public lands under a claim of public authority, which act the law

presumes to be done in the exercise of a legitimate power, and is therefore valid. It is objected further, however, on this point, that the grant is made in the name of the King of Spain, when, in fact, Gov. Sola was then acting under the authority of the new Government of Mexico.

This objection seems to be founded upon a misapprehension of the true meaning of the grant itself. It does not profess to be made in the name of the King of Spain, but merely recites that the land had been granted to Luis Peralta under his authority, in consideration of his long and distinguished military services; and the act of Gov. Sola, in issuing the grant, was only the consummation of that which had been commenced under the former government. Everything necessary to complete the grant had been done before the change of government, except the mere ministerial act of executing and delivering the title deed.

The party had been put in possession, and was in the occupation and enjoyment of it, unmolested by the authorities under the new government. This would certainly create an equity in favor of the grantee, which the Mexican Government was bound in good conscience to ratify and confirm; and the act of Gov. Sola, in making the grant, was but a fulfilment of the obligations of that government whose representative he then was. His power to do this is, I think, very plainly to be deduced from the terms of the Plan of Iguala, the Treaty of Cordova, and the act of the Mexican Congress of the 5th of October, 1821, as well as by legal presumption, according to the decisions of the Supreme Court already referred to. But even if he did not possess the power, the grant was fully ratified and legalized by the 10th section of the Mission Colonization Act of the 3d of January, 1823, which distinctly confirms all grants made under the former government which were completed prior to its passage, although that law was subsequently repealed. Yet such repeal would not affect rights which had vested under it while it was in force. As to the second objection, that the Governor had no right to make grants in full property, it might be sufficient to remark, that the grant itself purports upon its face to be a grant in full property, and the legal presumption which establishes the power of the Governor would make the power co-extensive with the terms of the grant.

But the law of the Spanish Cortes of the 3d of January, 1813, which, it is admitted, was in full force in California at the time this grant was made, except so far as its provisions were inconsistent with the new state of things introduced by the revolution, is conclusive on this point. That law provides that all future grants of land should be made in full property, subject only to the restrictions against alienation, within four years, and transfers in entail or mortmain. The Governor, therefore, if he possessed the power to grant at all, could grant only in full property.

From the examination I have given to the question, I am led to

the conclusion that Gov. Sola's grant of the 18th of October, 1822, was valid, and conveyed to the grantee the legal estate in the lands embraced within the boundaries it describes. The same reasoning will apply with equal force to the decree of Gov. Arguello of the 30th of June, 1823, restoring to Luis Peralta the lands which had been reclaimed by the Mission, so far as his authority to act in the premises and make the decree in question is concerned. The document itself, however, cannot be considered as a grant or title in the legal acceptation of these terms. It is clearly a decree of concession and order of survey, which might, under the Mexican government, have been perfected into a full title, and is therefore one of those inceptive and inchoate acts which, according to the acts of Congress of the 23d of March, 1851, and the decisions of the Supreme Court, may invest the claimants with rights which this Board is bound to consider and respect, provided they bring themselves within those equitable rules which are laid down for its government. How far they have done so in this case, and the extent of these rights, will be considered hereafter.

The above view of the powers of the Spanish and Mexican Governors on this subject seems to be fully sustained by the action of the Mexican authorities in California in similar cases which have been brought under their consideration. This is very strongly exemplified in the case No. 85, Jose de Jesus Vallejo, for the place called San Cajetano, decided by the Board some weeks since, which presents many very striking points of resemblance to that now under consideration. In that case a permission to occupy had been conceded to the grantee as early as 1820, who it seems entered into the possession, though it does not appear that any act of juridical possession was ever had. A grant, however, was issued by Gov. Sola in Feb. 1823, and subsequently confirmed by a decree of Gov. Arguello in 1824. The grant having been lost, application was made to Gov. Figueron, in 1834, for a new title, which, after due inquiry and investigation, was issued to the representative of the original grantee.

It appears from the original draft of the grant in that case, contained in the traced copy of the Espediente from the Archives, that it was drawn up in the usual form, and made subject to the approval of the Territorial Deputation and of the Supreme Government, the land being situated immediately on the coast, and consequently within the two littoral leagues. But in the formal grant which was delivered to the party, those provisions were stricken out, and the new title declared to be in rehabilidacion, as it may be translated, re-affirmation of the grant made by Gov. Sola, in February, 1823.

This action of Gov. Figueron, one of the most intelligent of the Mexican governors of California, and certainly the most rigid in his strict adherence to the letter of the law of 1824 and the regulations of 1828, receives the strongest presumption that he did not consider the title which he issued to the representative of Ignacio Vallejo as a

new grant of the land, but merely as a new title-deed to supply the place of the old one which had been lost. The declaration that it was made in rehabilidacion or in re-affirmation of the ancient grant, and its exemption from those conditions which were invariably inserted in all new grants, is conclusive on this point, and show most clearly that he did not consider it as made by virtue of the authority conferred by the law of August 18, 1824, and the regulations of 1828, and therefore it was not subject to the restriction imposed by them. From these facts the conclusion is inevitable that he considered the action of Governors Sola and Arguello in the premises as authorized by competent authority, and the grants made by them as valid and binding on the Mexican government. Nor does the action of Gov. Micheltorena in the case now under consideration conflict in any material point with the precedent established by Figueron in the one just cited. It appears from the second Espediente, a traced copy of which is filed in case No. 4, that on the 11th of February, 1844, Ignacio Peralta, on behalf of his father, Luis Paralta, presented his petition to the Governor, setting out that the land in question had been granted to his father by Gov. Sola, and juridical possession of it given by Lieut. Ignacio Martinez, but in consequence of the documents which secured the property and its possession having been mislaid, he prays for a new title. This petition was referred to the Secretary of State, who, on the 13th of February, reported that by the documents exhibited by the petitioner, "he accredits that to his father was granted a tract of land called San Antonio, agreeably to the extent shown by the deseno or map which he presents; and as it is twenty-two years since the government of that period made the grant, and ordered possession to be given, the interested parties having occupied the land since 819 (for 1819), I believe there is no objection whatever to granting him a new title, but in filing the boundaries to the tops of the mountains, it will be convenient that it be under the conditions not to prevent the neighbors on the Contra Costa from cutting the wood which they might need for their own use, but not to sell the same." Upon this report the Government on the same day makes the following decree: "Let the title be issued under the conditions expressed by the Secretary, those of the law and of the citation of the neighbors before the possession, in order to avoid subsequent reclamation.

(Signed) MICHELTORENA.

Then follows the usual decree of concession declaring Don Luis Peralta the owner in fee of the land, describing the boundaries definitively, directing the title to issue, and the espediente to be transmitted to the Departmental Assembly for its approval. This last decree is not signed by the Governor, nor does it appear from any evidence before the Board that any farther action was ever had in the premises. A careful examination of the report of the secretary proves clearly of all recognition of the validity of the ancient grant

of Governor Sola, and the decree of Arguello; he says the land had been granted to him agreeably to the diseno or map, which he presents. That the grant has been made by the government of that period, and instead of saying, in the usual form, that there was no objection to granting him the land, he says there is no objection to granting him a new title, thus recognizing by implication the validity of the ancient one. The decree of the Governor, which immediately follows, directing the title to issue, in accordance with the report, is a complete sanction of that document, nor is that sanction impaired or qualified in any material point by the conditions which he annexes to the decree. That in relation to the right of the inhabitants of the vicinage to take wood for their own use, although not contained in the original grant, had been reserved by Father Doran in his relinquishment on behalf of the Mission, from which it was evidently taken by the secretary. Those of the law is a very vague and indefinite expression, the true extent and meaning of which we have no means of ascertaining. All grants are necessarily made under the conditions of the law; but what particular conditions the law imposed on grants of this character, made in affirmation of an ancient title, we can only know from the practice of the government in similar cases; adopting this rule of construction, we should be brought to the conclusion that they only referred to those conditions which were annexed to all Mexican grants, such as the prohibition against alterations in mortmain, entail, &c. The condition requiring the citation of the neighbors was a very proper one, in order to insure the settlement of the boundaries according to the limits as established by the ancient title papers and acts of possession, and fully recognized in the proceedings there had.

The decree of concession, requiring the approval of the Departmental Assembly, was never signed by the Governor, or in any manner sanctioned by him; there is, therefore, no evidence that he would have required such approval to a new title deed of this description, and he might, like Governor Figueron, have stricken it out, although contained in the original draft of the grant itself; we can, therefore, see nothing in these proceedings calculated to impair the force of the precedent already cited. On the contrary, they tend, in my opinion, to recognize and reaffirm the principle established in that case.

Having, as I think, shown, both from the decisions of the Supreme Court as well as the usage and practice of the Mexican authorities in California, that the functions assumed by Governors Sola and Arguello in issuing the document on which this claim is founded, were exercised by competent authority, and that their action in the premises was therefore valid and binding on the Mexican government, we will now proceed to inquire what rights were conferred on the grantee by the document issued by Governor Arguello, on the 30th of June, 1823.

I have already said that the paper in question is not such a grant or title, and as such, in the legal acceptation of these terms, would convey to the grantee the legal estate in the premises. The question then arises, does it connote such a right as this Board can take cognizance of, and under the equitable jurisdiction conferred upon it by the Act of Congress of the 3d of March, 1851, confirm?

The Act of Congress of 1822, for the settlement of land claims in Florida, provided that any person claiming title to lands under any patent, grant, *grant*, concession, or order of survey, shall file his or her claim, &c., and was evidently intended to embrace and give jurisdiction to investigate and decide upon all kinds of titles, legal or equitable, perfect or inchoate, founded upon the several kinds of evidence of title specified in the act, and derived from the Spanish government. The language used in the Act of the 3d of March, 1851, by which this Board was created, is still more general and comprehensive. It gives authority to hear and determine any right or title derived from the Mexican or Spanish Governments, and would not only include all the varieties of claims embraced by the Florida law, but any others by virtue of which parties might have acquired rights to lands from these governments, and would be equally subject to the equitable jurisdiction of the Board, however imperfect and inchoate they might be. The document under consideration is clearly a decree of concession and an order of survey; it was formerly delivered to the party, and directed him to call on the Judge (Juez), who had executed the former writ, to place him again in possession of the land, which had been taken from him. This was accordingly done, and the boundary again established at the point where it had been filed by the first or original act of possession, as appears by the original return of that officer on the same paper, duly authenticated by his own signature and that of his assisting witnesses, all of which are proven to be genuine by competent testimony, since which time, a period of now nearly thirty years, the grantee and those holding under him have, as is shown clearly by the testimony in the case, claimed and occupied the land to the extent of the boundary line then established. That such a document, delivered to the party as evidence of his rights, accompanied by a formal act of possession by competent authority, may furnish the foundation for such an equitable right or title as this Board would be bound to confirm, cannot, I think, admit of a doubt. In the present case, the actual severance of the land from the public domain by public authority, the long and continued occupation of the parties under it, and according to the limits then established, in the language of the Supreme Court, "without disturbance by any superior authority, and respected by all co-ordinate and inferior tribunals and officers, in the province where it lies, constitutes such a consequent acquiescence and presumed ratification as would bind the conscience of the Mexican government to confirm the claim and perfect the grant, by issuing to

the claimants a formal title in full property." But we are not left to mere inference on this point. The proceedings of the Mexican Government in California, on the petition of Ignacio Peralta, in February, 1844, contain a full recognition of its obligations in the premises, a reference to the report of the secretary, Manuel Jimeno, upon the petition, together with the map or diseno to which it refers, which report is duly sanctioned and approved by the decree of the Governor of the same date, will prove beyond question that the revalidation and ratification of the claim by these proceedings was the whole extent of the land as embraced both by the grant of Governor Sola, and the decree and order of survey by Governor Arguello, as defined by the last act of juridical possession. The report states that he accredits that the land was granted to his father to the extent of the map or diseno, which he presents, and the map shows that extent to be from the Creek of San Leandro to the rivulet lying immediately north of the Serito, both of which are laid down on it. And the land south of the rivulet, described as the land of the Peraltas, and that north as the land of the Castros.

The decree of concession immediately following defines the boundaries particularly, and describes it as land on the northwest by the Creek of the Serritos de San Antonio, thus corresponding precisely with the delineation contained on the map. I conclude, therefore, on this point with the opinion, that the decree of concession and order of survey delivered to the ancestor of the claimants by Governor Arguello, the juridical possession under it, the long and uninterrupted possession and occupation of the land in accordance therewith, and the formal recognition of their rights twenty years afterwards by the Mexican authorities in California, invest the claimants with equitable rights, which this Board is bound to respect, and which also entitle them to a confirmation of that portion of the land claimed, embraced in said decree, and defined by the act of juridical possession made under its authority. The question of the boundaries of the land claimed remain to be considered. This was involved and discussed to some extent in considering the last point I examined, but there are some questions presented by the evidence in reference to it which will require a further examination. As to three of the boundaries no difficulty is presented. The Creek of San Leandro is clearly established as the southern line, and its junction with the Bay as the starting or beginning point of the survey. The summit line or comb of the Sierras and the Coast of the Bay are equally well settled as the eastern and western lines. The only difficulty there is locating the true position of the northern line or boundary. In order to establish the point of commencement of this line in the Bay it will be necessary to recur again to the several acts of juridical possession executed by Lieut. Martinez. In the first, he describes the northern boundary as follows:—At a distance from this San Leandro (say about five leagues) there are two small mountains (Seritos); the first

is close to the beach, next to it follows that of San Antonio, serving boundaries. The rivulet, which issues from the mountain range and runs along the foot of said small mountain of San Antonio, separating the land, and at the entrance of a little gulch there is a rock elevating itself in the form of a monument, and looking towards the north. After the reclamation of the Mission of San Francisco, in accordance with the written consent of the Father Ministers of the Mission, he established the line three and a half or four leagues from the Rancho-house of the Mission, and describes it as a rivulet which runs from the mountain to the beach, where there is a willow grove, about one and a half leagues from the Serito de San Antonio. When the land was restored to Luis Peralta, by the decree of Arguello, the line was again filed at the point first established, which he describes in his third act of possession, at the place called Serito de San Antonio, and the rivulet that crosses the place where there is a rock looking to the north.

From the marked character of the natural objects called for and the minuteness of the descriptions given in his several returns, by Ignacio Martinez, there would seem to be but little difficulty in identifying and locating them. But some little obscurity is thrown on this point by the fact that there are two other streams lying near to the San Leandro, now known by the name of Arroyo and Arroyeto de San Antonio, and all effort is made in the proof to fix one of these streams as the boundary in question, aside from the fact that neither the distance nor the natural objects called for correspond with those given in the several acts of juridical possession and other documentary evidence in the case; the deposition of the witnesses examined on this point are fatal to this hypothesis, and are sufficient to dissipate all doubt on the question. It is worthy of remark, in the first place, that the Mexican or native witnesses examined in the case, and who may be presumed to be most familiar with the localities and names referred to, apply the term cerito or serrito (meaning little mountains) exclusively to the elevation claimed by the petitioners, as fixing the true position of their northern boundary. They almost invariably speak of them indifferently, by the name simply of the ceritos or seritos of San Antonio, or San Pablo, while the terms used to designate other elevations on the coast, between that point and San Leandro, are invariably lomas or lomitas, meaning hills or little hills. In addition, we have the direct testimony of Nicholas Berreyesa, Antonio Pacheco, Jose Maria Amador, and others, to the fact that those seritos identified as situated near the house of Victor Castro, and by the tall rock known as the Sugar Loaf, designated the point where the northern line of the Peraltas land left the coast of the bay in the direction of the mountains. The two first were each present at one of the acts of juridical possession, when that point was fixed as the boundary, the one as assisting witness, the other as a spectator. But the depositions of Joaquin J. Castro and

Manuel Castro are conclusive on this point, the former particularly, whose deposition was taken in support of the intervening claim of Jose and Victor Castro, removes every difficulty as to the true locality of the boundaries filed by the several acts of juridical possession. He proves, among other things, that the seritos in question were known indifferently by the names of San Antonio, San Pablo; that the Peraltas called them San Antonio, and the Castros, San Pablo; but he goes farther, and establishes the position of the ceritos and the willow grove, beyond all question; we will give his testimony on this point in his own words: "The house (that is, the rancho house of San Pablo, belonging to the Mission of San Francisco) was situated on the table, and between the small and large creeks, called San Pablo,—the ruins of it are still to be seen. The corral for sheep was situated in a willow grove, called Temescal. The cerito of San Pablo was almost half way between said rancho house, and the corral was about three leagues and a half, and the distance from the said serito was a little upwards of five miles. Now it will be recollected that, in the document found in the espediente, in connection with the second act of juridical possession, Fathers Juan Cabot and Blas Ordiz, Ministers of the Mission of San Francisco, consent that the boundaries of Sergeant Luis Peralta may be fixed at the rivulet, three and a half to four leagues from the rancho house of said Mission, in the direction of San Jose, which point was accordingly established by Martinez, and which he describes as being a league and a half from the serito of San Antonio towards San Leandro, serving as a boundary line, a rivulet issuing from the mountain range, which runs down to the beach, where there is a grove of willows.

The remarkable coincidence between these two documents, and the testimony of an adverse witness, taken nearly thirty years after they were executed, establishes these two points with a degree of certainty and precision which is rarely met with in legal controversies of this character. The only discrepancy in the testimony on this point is found in the deposition of Nicholas Berreyeza, which goes to show that the northern boundary of the land claimed was originally fixed at the southern instead of the northern base of the serito of San Antonio. This, however, is in direct conflict with the return of the officer, who gave the juridical possession, and the other testimony in the case on this point, all of which establishes the arroyeto or rivulet running at the base of the mountain as the boundary. This evidence is certainly more than sufficient to outweigh that of a single witness, who testifies that he never was on the spot but once, and that more than thirty years ago, and whose recollections are, according to his own showing, exceedingly vague and indefinite on the subject. I think, therefore, that the whole evidence, taken together, very clearly establishes the arroyeto or rivulet running along the base of the serito or little mountain of San Antonio, as the northern or northwestern boundary of the rancho of San Antonio, claimed in these cases.

A number of depositions have been taken and filed in case No. 4, mostly those of settlers, or, as some of them term themselves, squatters, within the limits of the land claimed, the object of which seems to be to prove that the quantity of land embraced within the claim is greater than that by which the Mexican Colonization Law of 1824 was permitted to be granted to one individual. Without stopping to inquire how far the testimony of witnesses who have settled on the land in controversy, with a view of holding their locations, under the pre-emption laws of the United States, and who are therefore interested in defeating the claim, is competent or admissible in the case, we cannot perceive, even if full weight was given to it, that it would exert any material influence upon the decision of the questions involved in it. If the views contained in the preceding part of this opinion are correct, and the claim was a valid one in law or equity, by virtue of the grant of Gov. Sola, and the concession and order of survey of Gov. Arguello, the rights which rested under them would not be controlled or subjected to any limitations or restrictions imposed by a law passed subsequent thereto.

The Supreme Court, in the case Aredondo, 6 Peters, 718, lay down the principle that the exercise of the jurisdiction conferred by Congress to decide on claims of this description, they would not be at all affected or controlled by the magnitude of the claim under consideration. The law which confers the authority, and points to the guides for its exercise, makes no such discrimination, and every principle of justice forbids it.

This principle applies with equal force to the action of this Board, and if the parties claimant in these cases have shown a good and valid claim under the laws of Spain and Mexico, and the decisions of the Supreme Court, to the extent of the boundaries which they set forth, we are bound by the terms of the Treaty of Guadalupe Hidalgo, the law of Congress, and every principle of justice and national faith, to confirm it to that extent, no matter what may be the magnitude of the claim and the value of the land. But there is no evidence showing with any degree of certainty that the quantity of land contained within the limits claimed exceeds the amount authorized by the Mexican Colonization laws; there are a number of vague calculations given, mostly by parties interested in defeating the claim, estimating the quantity at amounts varying from ten to twenty square leagues. But the most reliable estimate is that given by Joaquin J. Castro, who has resided for thirty years immediately adjoining the land, and who is professedly familiar with its whole extent, and whose remarkable accuracy we have already had occasion to comment on in connection with another point in the case. He fixes the amount at about ten square leagues, and in this connection we may advert to a plot and field notes of a survey made under an order of the Board and the instructions of the Surveyor-General of California, and filed with the papers, which although not received as

testimony on the hearing, for the want of the evidence of the Surveyor who made it, to connect it directly with the land claimed, yet may be referred to in this point in corroboration of the testimony of Castro. That survey ascertains the quantity to be about ten and a half square leagues, thus furnishing additional testimony of the correctness of the estimate of that witness. One effort has also been made to reduce the quantity of land to which the claimants are entitled by showing that in giving in the amount of land contained in the tract now claimed by them to the County Assessors since the organization of the State Government of California, they gave in only five square leagues. This may be accounted for from what appears to have been a custom with the Mexican proprietors in California in estimating the quantity of land contained within their limits, to refer only to such portions as are suitable for the purposes to which they were applied. A striking instance of this occurs in the description of the lands now claimed given by Luis Peralta, under an order of the Governor, in 1827, which is found in the traced copy of the expediente filed in the case. It will be seen that certain localities, embracing a considerable portion of the land contained within the boundaries, are excluded from the description as unsuitable to the purposes of pasturage, to which the ranch seems to have been chiefly devoted. Yet it is hardly to be presumed that he or any one else ever supposed that he thereby divested himself of his right to those localities. His sons, in their ignorance of the laws and customs of the new government under which their lot was cast, may have acted under the same principle, in giving in the quantity of land they owned to the County Assessor. But whether be so or not it would be a novel and unheard-of principle of jurisprudence to decree a forfeiture of lands because the owner, either through fraud or mistake, failed to give in to the fiscal officer of the Government the full amount of lands which he owned. The laws of the State have doubtless imposed ample penalties on derelictions of this sort, and to those laws the parties are answerable. But it will scarcely be contended that this Board has any authority to reject a claim or declare a forfeiture on any such ground. Several deeds of conveyance from some of the claimants to other parties, conveying portions of the land claimed, are filed in the case, doubtless with a view of resisting a confirmation to those portions upon the ground that the claimants had divested themselves of all its rights and title to them. The same point was raised in the case of the United States against Puchman, 7 Peters, p. 51, but was so summarily overruled by the Supreme Court that it is scarcely necessary to do more than advert to it. After a careful examination of all the questions presented in these cases I am of the opinion that the claimants are entitled to a confirmation to the whole extent of the land claimed by them, from the Creek of San Leandro to the arroyo or rivulet, which runs from the mountains to the bay, along the base of the

serito or little mountains, known indifferently by the name of San Antonio or San Pablo, and from the coast of the Bay of San Francisco to the summit or comb of the Sierra, or first range of mountains east of said bay.

Filed in office Feb. 7, 1854.

(Signed) GEO. FISHER,
Secretary.

Office of the Board of Commissioners, to ascertain and settle the Private Land Claims in the State of California.

I, George Fisher, Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing pages, numbered from 1 to both inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the decision of the said Board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office in case No. four on the docket of the said Board, wherein Vicente Peralta et al. are the claimants against the United States for the place known by the name of San Antonio.

In testimony whereof I hereunto set my hand and affix my private seal (not having a seal of office), at San Francisco, this twenty-third day of September, A. D. 1854, and of the Independence of the United States of America the seventy-ninth.

[SEAL.]

(Signed) GEO. FISHER,
Secretary.

Notice of Appeal.

Clerk's office of the District Court of the United States for the Northern District of California.

Whereas the commission constituted for the purpose of ascertaining and settling private land claims in the State of California, by the Act of Congress of the United States of America, approved on the 3d of March, 1851, entitled "An Act to ascertain and settle the private land claims in the State of California," did on the seventh day of February, 1854, by their decision of that date, decide against the claim as presented by the undersigned to the said Commissioners, which claim is No. 4, on the docket of claims before said Board, and is for land lying in the said northern district. And the said claimants being desirous that the said District Court should review the said decision, now hereby files this notice in the said clerk's office, of their intention to prosecute an appeal, as is provided by the 12th section of an Act entitled "An Act making appropriations for the civil and diplomatic expenses of the government, for the year ending

the 30th June, 1853, and for other purposes," which said Act was approved on the 31st of August, 1852.

VICENTE PERALTA,
DOMINGO PERALTA,
By their counsel, V. E. HOWARD,
THORNTON & WILLIAMS.

Indorsed.

Filed September 27th, 1854.
(Signed) JNO. A. MONROE,
Clerk.

Petition.

To the Honorable the District Court of the United States for the Northern District of California.

Your petitioners, Vicente Peralta and Domingo Peralta, respectfully represent to this Honorable Court, that they did, heretofore, as will fully appear by the transcript of the proceedings had before the Board of Commissioners to ascertain and settle the private land claims in the State of California, now on file in this Court, present before the said Board whilst holding its sessions in the City of San Francisco, a claim for the land lying and being in the State of California, and in the northern district, and described in the said transcript, being claim No. 4, of the list of claims presented to the said Board, under and by virtue of the Act of Congress approved on the 3d of March, 1851.

The claim of your petitioners is founded on grants and concessions of the property in fee made to Luis Peralta, the father of petitioners, by Don Pablo Vicente de Sola, Governor of the province of Upper California, dated respectively on the 3d day of August, 1820, and on the 18th day of October, 1822; and also by Governor Arguello, the successor of said Sola, dated on the 30th day of June, 1823. All of which said grants and concessions are fully set forth with the proof and testimony in the transcript aforesaid. Your petitioners also rely, as sustaining their claim in this behalf, upon the proceedings of recognition and confirmation, had under the Mexican Government, which proceedings were a report of Secretary Jimeno to Governor Micheltorena, and the concession of the said Governor, made on the 13th day of February, 1844; which are of evidence, as appears by transcript above mentioned.

Your petitioners respectfully represent that they claim a part of the land so granted, specified in the said transcript, as devisees under the last will and testament of the said Luis Peralta, and which part so specified was allowed and assigned to these petitioners under a division made of the whole tract among and between all the devisees thereof under said will, as appears by the said transcript; that their said claim has been rejected in part of its extent, by the said Board, which part so rejected is specified in the decree of said Commissioners, and appears in the transcript aforesaid.

And your petitioners now humbly pray this Honorable Court, to review the decision of the said Board, and to decide on the validity of their claim.

VICENTE PERALTA,
DOMINGO PERALTA,
By their counsel, V. E. HOWARD,
THORNTON & WILLIAMS.

I hereby acknowledge due service of the foregoing petition.
S. W. INGE.

Indorsed: Filed September 27, 1854.
(Signed) JOHN A. MONROE,
Clerk.

In the District Court of the United States for the Northern District of California.

VINCENTE PERALTA and
DOMINGO PERALTA
v.
THE UNITED STATES.

Answer.

The answer of Samuel W. Inge, Attorney of the United States of America, for the Northern District of California, on behalf of the said United States, to the petition of Vincente Peralta and Domingo Peralta, on behalf of the said United States, to the petition of Vincente Peralta and Domingo Peralta, praying the court to review the decision of the Commissioners, appointed under the Act of Congress, approved the 3d of March, 1851, and entitled "An Act to ascertain and settle the private land claims in the State of California," upon the validity of their claim to certain land claimed by said petitioners, and to decide on the validity of said claim.

The said attorney answering in behalf of the said United States, denies all and singular, each and every allegation in the said petition contained.

And the said attorney, in compliance with section 9 of the said Act of Congress herein, fully and distinctly sets forth the grounds upon which the said claim is invalid, to wit:

1. Because the said Pablo Vincente de Sola had no lawful power or authority to grant or concede the said land.

2. No grant or concession of the said land, was, in fact, made by the said Sola to Don Luis Peralta, on the 3d day of August, 1820, or on the 18th day of October, 1822, or at any other time.

3. The said Arguello had no lawful power or authority to grant the said land, nor did he grant or concede the same to the said Louis Peralta, on the 30th of June, 1823, or at any other time.

4. The said land was, at the date of said pretended grants and concessions, the property of the Mission of San Francisco.

5. The said land was never segregated from the public domain of Mexico, and passed to the United States by the Treaty of Guadalupe Hidalgo.

6. The appellants have no legal or equitable claim or title to the said land.

Wherefore the respondent, in behalf of the said United States, prays this court to decide the said claim to be invalid, and to decree costs against the said petitioners.

S. W. INGE,
U. S. District Attorney.

Indorsed: Filed October 25, 1854.
(Signed) JNO. A. MONROE,
Clerk.

THE UNITED STATES *ads.* VICENTE and DOMINGO PERALTA. } No. 100.

Testimony taken in open court this seventh day of November, A. D. 1854.

Testimony of Wm. Carey Jones.

Wm. Carey Jones, being duly sworn, deposes and says:

I am acquainted with the land embraced in the petition, filed in this case, in this court. The lands lie on the Bay of San Francisco, opposite the City of San Francisco, north of the parallel of 37° north latitude, and within the Northern Judicial District of California.

Testimony of Thomas E. Evershed.

Thomas E. Evershed being duly sworn, deposes and says:

I am clerk in the Surveyor-General's Office for the State of California, and am one of the archive's clerks. Espediente, No. "18," now produced by me, and shown in court, of a grant of land to Joaquin Isidor Castro, called San Pablo, is also a record in said office. Espediente, No. 345, now produced by me, and shown in court, of a grant of land to Ignacio Peralta, called San Antonio, in the year A. D. 1844, is also a record in said office, and is the same as contained in the record in this case, beginning on page 93. The same Expediente contains a map, referred to in the petition of Ignacio Peralta, and in the report of Jimeno. I suppose it must be the one, as it is attached to and is a part of the Espediente and of the Archives in the office.

Testimony of J. J. Warner.

J. J. Warner being duly sworn deposes and says:

I know the signatures of Micheltorena and Jimeno, from having seen

both the individuals write. The signatures of Micheltorena and Jimeno, as they appear in espediente No. 345, I believe to be their genuine signatures. The body of the document dated Monterey, February 13th, 1844, purporting to be the entry of a grant, being the same in the record in this case on page 95 is in the handwriting of Manuel Jimeno. Manuel Jimeno was Secretary of State in the year 1844. I was acquainted with the usages and customs of the Mexican Government in granting lands in 1844. It was not the custom for the governor and secretary to sign the office copies of grants which were retained in the office. The copy in this case is in the usual form of the copies retained in the office. The body of the Decree or concession signed by Micheltorena, dated Feb'y 13th, 1844, is entirely in his handwriting.

Cross-examined by U. S. Attorney.

I obtained in the fall of 1844 a grant from Micheltorena, after which I examined the record and discovered that the office copy or record was not signed. I applied to the secretary Jimeno for information. He told me it was not usual to sign the record, and showed me a large number of espedientes then in the office to which there were no signatures affixed to the record copy of the grant. These office copies did not generally purport to be verbatim copies. Frequently they were a condensation from which a full title issued to the applicant was made out. In various instances they were literal copies.

Direct resumed.

As secretary, Jimeno's business habits were unimpeachable.

Indorsed: Testimony taken in open court, Nov'r 7th, 1854.

U. S. District Court, Northern District of California.

VICENTE and DOMINGO PERALTA *v.* THE UNITED STATES. } No. 21.

Being an appeal from the U. S. Board of Land Commissioners for the State of California in Case No. 4 on the docket of said Board of Land Commissioners.

Deposition of Jacob P. Lease.

Deposition of Jacob P. Lease, taken in behalf of claimants, on the 2d day of May, A. D. 1854, before Jasper J. Papy, a U. S. Commissioner for said Court.

First Interrogatory. Are you acquainted with the Rancho San Antonio, the title to which is involved in this case?

Answer. Yes.

Second Interrogatory. Please state what you know as to the northern boundary of said rancho.

Answer. In the fall of 1840 I was at the ranch of Vincente Peralta, and they were talking about their northern boundary line in reference to Victor Castro's settling on it. From Peralta's I went to Rancho San Pablo, which is the adjoining ranch with Peralta; said San Pablo ranch is the property of Castro. On my way to San Pablo I stopped at Victor Castro's house, which he was building at the "Ceritos." The house was built on the east side of the "Ceritos." I informed him of the conversation I heard at Peralta's. He, Victor Castro, then pointed out to me the boundary line between San Pablo and Peralta's ranchos, which was a small brook on the southern side of the Ceritos, from the southern sloop of which the brook was distant something within half a mile.

Third Interrogatory. Please describe the Cerito of which you have spoken.

Answer. The Cerito to which I refer is a suddenly uprising concealed mound, immediately on the bay, and west of Victor Castro's house.

Fourth interrogatory. On what tract of land is the house of Victor Castro to which you referred?

Answer. I understood from Castro that it was upon the San Pablo tract.

Fifth Interrogatory. What was the boundary (northern) of the Peralta ranch, as claimed by them, and which you communicated to Castro at the time of the conversation to which you have heretofore referred?

Answer. The Peraltas claimed at that time up to where Castro was then building his house near the Cerito. This conversation occurred some time in the fall of 1840. To this claim of the Peraltas Victor Castro objected, and pointed out to me the brook heretofore described as the boundary line between the ranchos.

Sixth Interrogatory. What distance is it from that brook to Temascal Creek?

Answer. I judge it to be from two and a half miles to three miles in a southerly direction. Vicente Peralta lived on the north side of Temascal Creek.

Seventh Interrogatory. To what extent, as to the boundary, did Vicente and Domingo Peralta occupy the land?

Answer. They occupied, as I understand, from the Temascal Creek up to the Cerrito above described.

Eighth Interrogatory. How long, to your knowledge, were the Peraltas in possession of this land?

Answer. I do not know. When I came here in 1836, I found them in possession of the land, and they have remained so ever since.

Cross-Examination by District Attorney.

First Cross-Interrogatory. What do you mean by possession, in your answers?

Answer. I mean occupation, cultivation, pasturing cattle. Part of the land was under cultivation, the balance used as pasturage. In the Temascal part of the ranch there were about one hundred acres enclosed. In the entire ranch there must have been three hundred acres enclosed and cultivated.

(Signed) J. P. LEESE.

Sworn to before me the 2d day of May, A. D. 1854.

(Signed) J. J. PAPY,
U. S. Commissioner.

Deposition of James A. Forbes.

United States Commissioner's Office.
San Francisco, May 10th, 1854.

James Alexander Forbes, being duly sworn, says,

To the First Interrogatory. Are you acquainted with the Rancho San Antonio, the title to which is involved in this case?

Answer. I am.

Second Interrogatory. Please state what you know as to the northern boundary of said rancho.

Answer. The northern boundary, or more accurately the N. N. W. boundary, commences at the western base of the hill or Cerrito of San Antonio, situated on the eastern shore of the Bay of San Francisco, a short distance south of the house, the present residence of Victor Castro, thence in a direction between north and east, straight line, to the summit of the mountain ridge or Cierra to a conical hill, known by the native Californians by the name of "El Picacho." That boundary was pointed out to me twenty-four years ago by the deceased Francisco Castro, and also on several occasions by the deceased Luis Peralta, and has always been considered and recognized by these parties as the true boundary, as by the public in general considered and known as the boundaries between the Ranchos San Antonio and San Pablos. The respective owners of these ranchos never had any dispute as to the boundary up to the present time within the knowledge of this deponent.

Third Interrogatory. Please describe the Cerrito San Antonio, of which you have spoken?

Answer. It is a conical hill, perhaps about two hundred feet high, situated on the eastern shore of the Bay of San Francisco, quite a prominent object, being separate from the rest of the hills. Near its base on the western side, runs a small creek into an estuary called "Embarcadero de San Antonio." There is another estuary larger than this one some distance south of this, upon which the Town of San Antonio is built. The first-stated estuary situated near the hill

"de San Antonio" is the one that was used by the Castros at certain seasons.

U. S. Attorney waived a cross-examination.

(Signed) JAS. ALEX. FORBES.

Sworn to and subscribed before me, this 10th day of May, A. D. 1854.

J. J. PAPY,
U. S. Commissioner.

United States of America, Northern District of California, *ss.*

I, Jasper J. Papy, a commissioner duly appointed by the District Court of the United States for the Northern District of California, under and by virtue of the Acts of Congress, entitled "An Act for the more convenient taking of affidavits and bail in civil causes, depending in the courts of the United States," passed February 25th 1812, and the Act of Congress, entitled "An Act in addition to an Act entitled 'An Act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States,'" passed March 1st, 1817, and the Act entitled "An Act to establish the Judicial Courts of the United States," passed September 24th, 1789, do hereby certify, that the reason for taking the foregoing deposition is, and the fact is, the witnesses were material and necessary in the caption of the said deposition named, and that they were by consent of parties examined, and their testimony reduced to writing.

I further certify, that on the 3d and 10th day of May, in the year of our Lord one thousand eight hundred and fifty-four, I was attended by the Counsel for Claimants, and by the United States District Attorney, and by the witnesses, who were of sound mind and lawful age, and the witnesses were by me first carefully examined and cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, and the depositions were by me reduced to writing in the presence of the witnesses, and from the statements; after carefully reading the same to the witnesses they subscribed the same in my presence. I have retained the said deposition in my possession for the purpose of delivering the same with my own hand to the Court for which the same was taken.

And I do further certify, that I am not of counsel nor attorney for either of the parties in the said deposition and caption named, nor any way interested in the event of the cause named in the said caption.

In testimony whereof I have hereunto set my hand and seal this 11th day of May, in the year of our Lord one thousand eight hundred and fifty-four, and of the Independence of the United States the seventy-eighth.

J. J. PAPY,
United States Commissioner duly appointed by the District Court of the United States, for the Northern District of California.

Indorsed: Filed Nov. 7, 1854.

(Signed) JNO. A. MONROE,
Clerk.

Deposition of M. G. Vallejo.

VICENTE PERALTA et al.
v.
THE UNITED STATES.

Testimony taken in open court, this 8th day of November, 1854.

M. G. Vallejo, being duly sworn, deposes and says:

Question by United States Attorney. My name is M. G. Vallejo, my age 47 years, and I have lived in California all my life. I know the parties, claimants in this suit, and their father, Don Luis Peralta. Don Luis Peralta was married before I was born. Loreta Alviso was his wife. I don't remember when she died, but it was a long time ago. The names of their children are Ignacio, Antonio, Maria, Domingo, Vicente, Teodora, and two others, whose names I do not recollect. They may have had more. Both Don Luis and his wife are dead. She died first. Don Luis died three or four years ago. I think she died before the country was occupied by the Americans. I know the land claimed by the parties claimed to have been devised by grant from Sola, and the true boundaries thereof. I know the land which was cultivated and occupied by the Mission of San Francisco, about the years 1820 and 1821.

Witness is here shown a map, which is hereto annexed. The outlines are correct; generally it is a correct map. The points occupied by the Mission are San Pablo, Temascales or los Juchiyunes, and Arroyo del Indito. The Mission occupied and cultivated lands on each side of the Arroyo del Indito as late as the year 1827. I am not positive that the Mission occupied and cultivated said lands as late as 1827, but I am sure it did as late as 1823 or 1824. They so occupied it in 1819, 1820, 1821. I remember it was so occupied in 1819. It may have been occupied before, but 1819 is as early as I recollect. I have been over this rancho frequently, and am familiar with the mountains, creeks, ensinal, willow groves, and other natural objects upon the rancho. I think the arroyos Indito, Leandro, and San Antonio are correctly laid down on the map annexed to this deposition. In that time it was called four leagues from San Leandro to the San Antonio, and thence two leagues to the Indito. There is only one Encinal between the San Leandro and the Indito on the Bay of San Francisco, which is called the Encinal of San Antonio; on the other side of the Indito there is an Encinal of a smaller size, that is on the N. W. side. The Encinal of San Antonio is conspicuous from all parts of the ranch. It is covered with live oak. It is destitute of fresh water. Prior to and up to the year 1827, the Peraltas had their house on the creek, designated on the map as the creek of San Antonio, on the north side, and their cattle pastured on both sides. Prior to 1827 they did occupy no land

north of the Arroyo Indito. That land north of said arroyo prior to 1827, was considered vacant land. The witness is requested to look at the document signed Luis Peralta, dated San Antonio, Dec. 19, 1827, found on pages 89 and 90. I have looked at it and read it particularly. The land described therein lies between the Arroyo San Leandro, and the Arroyo del Indito, as designated on the map annexed to this deposition, and no part of it lies north of the Arroyo del Indito. Please look at document signed Luis Peralta, and dated 20th June, 1820, found on pages 81 and 82 of this record, purporting to be a petition of the said Peralta to the Governor for a grant of land. I have read said document carefully, and am acquainted with the land described. The land described is the same as that to which I have referred in my previous answer. Of the two encinales designated on the map, that of San Antonio is the largest. The distance between the two across the estero, I think is about 800 or 1000 yards. I think the relative position and size is correct, I cannot say absolutely, there being no scale, at the points of the map where Sausul is written. There were willow groves on the tract of land which lies south of the Arroyo del Indito. There is a lomeria. On the same tract, without reference to this map, there are puntos de Esteros or estuaries actually existing on the ground; on the same tract lying south of the Arroyo del Indito, there are small willow groves and oaks on the margin of the little creek, and oaks of the sides of the lomas. The tract of land lying next north of Arroyo del Indito from my earliest recollection up to the time of the American occupation of the country, has been known by the name of Temascales, and the land on the south side of said Arroyo del Indito between there and the Arroyo San Leandro was called San Antonio. No part of the tract of land which was called San Antonio, prior to the American War, lay to the northward of the said Arroyo del Indito. On the same tract of land lying between Arroyo del Indito and San Leandro, there are many cañadas along the Sierra, and four or five, may be more, streams issuing from the Sierra.

(For Map, see original, between pages 222 and 223.)

Cross-examined by Claimants' Counsel.

The distance between the mouth of the Creek San Leandro and the Creek San Antonio, are represented by the map annexed to my deposition, is about three miles in a direct line. In the neighborhood (marked on this map) of Cerrito de San Pablo, there are two picachos or peaks, more remarkable than the others. In the range of the hills on the east side of the Cerrito de San Pablo, there are 3 or 4 other very prominent rocks along the said range south, and 4 or 5 more. Those points I have mentioned in the neighborhood of San Pablo are not penasios or rocks, but picachos. The old Mission house or Rancho of the Mission of San Francisco, was at a point on this map called San Pablo. The distance of this old Mission rancho from the Cerrito San Pablo, as marked on this map, was about 3 leagues

(three); the distance from Cerrito San Pablo to the Creek of San Antonio is about 6 leagues; the distance between the Creeks Indito and San Antonio, is about 2 or 2½ leagues; I don't know exactly. The map of which this is a copy annexed to my deposition, was made by Mr. Rowe; I think it was made to show how the land lay. Mr. Rowe is a Surveyor. It looks like a copy of the map which is annexed to my deposition taken in the Sobrante case, being a claim by Victor and Juan Jose Castro.

Direct resumed.

Prior to the American occupation of the country the Cerrito designated on this map as Cerrito San Pablo was never known by the name San Antonio, nor was there any other hill or mountain northward of the Arroyo del Indito, known by the name San Antonio, prior to the American occupation.

Cross-examination resumed.

Yerba Buena Island is situated in the Bay of San Francisco, directly opposite to the Cerrito of San Pablo, and there is no other island opposite.

The District Attorney offers to prove, by the testimony of native inhabitants of California, and experts, that the following words in Document found on page 81 and 82 of the record, signed Luis Peralta, and dated 20th June, 1820, to wit:—"y desde este ha una lomita qe. esta frente a la playa por el mismo rumbo y costa habia cuatro o cinco leguas, cuyo sitio y terreno pide y suplica se le concede," is a petition for four or five square leagues in quantity of land, and that the words in the clause, "cuatro o cinco leguas," signify in the connection in which they stand, quantity of land, and not distance only.

Which proof is objected to by the counsel for claimants, and overruled by the Court; to which ruling the District Attorney excepts.

Indorsed.

Testimony taken in open Court on 8th November, 1854.

(For map, see original, page 226.)

Sello Tercero Dos Reales.

Habilitado provicionalmente por la administracion de la Aduana Maritima de Monterrey de la Alta California por los anos de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

FIGUEROA,
A. RAMIREZ.

Espediente of the San Pablo Rancho.

Monterey, Junio 26, 835.

Agreguese esta solicitud al expediente de la materia y con vista de el, informe el Secretario lo ge se le opresca pa sa resolver lo conveniente.

FIGUEROA.

Sor Gefe Superior Politico.

Joaquin Castro vecino de la jurisdiccion del Puerto de Sn. Francisco, ante V. S. con el debido respeto digo: que teniendo echa solicitud al Gobierno, de V. S. pretendiendo la concecion propria del Rancho de Sn. Pablo, que actualmente poscemos los herederos de mi finado Padre, como se expresa en mi anterior escrito; por una inadvertencia no pedi en el la estencion de terreno que comprende el diceno que la acompano, y solo disse solicitor los tres sitios que antiguamente ocupabamos, siendo pues el terreno que poscemos bastante reducido respecto del cresido numero de bienes qe. en el se mantienen y los fuertes impulsos que cada dia se le da para engrandecerlos; solicito a nombre de los demas herederos como apoderado sugo se extienda la dicha peticion de los tres sitios que antes ocupabamos con el aumento de terreno que demarca el citado diceno. Por tanto.

A. V. S. suplico se sirva proveer como pido en que recivire grasia jurando le necesario.

JOAQUIN YSIDRO CASTRO.

Monterey, 23 de Junio de 1835.

Sr. Gefe Superior Politico.

En cumplimiento del decreto superior de V. S. que antecede, agrego a continuacion de este espediente de los antecedentes a qe. se refiere pa. qe. V. S. se sirva resolver lo que tubiese por conveniente.

FCO. DEL CASTILLO NEGRETE.

Monterrei, Junio 20 de 1835.

Sr. Gefe Supr. Politico.

Practicada la medicion en el diseno senalado con el numero dos, ultimo qe. antecede, a fin de reducir la desigualidad de sus linderos, a un cuadrilongo, i de estre a sitios de ganado mayor, resulta como practicamente se ve en el citado diseno, qe. en linea N. E., S. O. tiene de longitud dos leguas i setecientas varas y en la de N. O., S. E. otras dos menos quinientas de latitud de lo que resulta la deferencia de dos cientas varas en longitud.

De los operaciones practicadas en la medicion resulta que el terreno comprendido en los linderos qe. senala el plano por la parte de tierra

i el mar, desde la loma de Sn. Antonio al N. E. trai una legua i quinientas varas largas. Desde este punto al N. N. O. una legua i mi li quinientas varas i desde este al O. E. N. O. otra i cien varas mas.

Reducidos lo linderos de mar i tierra a lineas rectas en el cuadrilongo, i practicando la medicion resulta comprendido en ellos, un terreno de cuatro sitios de ganado mayor i la vigesima cuarta parte de otro proximamente, sin contor los desilgualdades del terreno de qe. carece el plano No. 2, y se ven en el No. 1, aunge. sin esactitud pr. no citar determinada la altura de las lomas cosa indispensable pa. saber con esactitud la dimension del terreno.

Es cuanto puedo decir sobre el particular cumpliendo con el decreto superior de V. S.

FCO. DEL CASTILLO NEGRETE.

Monterey, Junio 27 de 1835.

Monterey, Agosto 14 de 1835.

Vista la peticion con que da principio este espediente, la concesion que se obtuvo de la esma diputacion territorial en 15 de Abril de 1823, la solicitud que con fha 23 de Junio de este ano presento pidiendo la ampliacion de poro mos de un sitio de ganado mayor segun senala el diseno No. 2, con todo lo demos qe. se tuvo presente i ver convino de conformidad con lo dispuesto por los leges; i reglamentos de la materia se declara i D. Franco. Maria Castro dueno en propiedad i por su follecimiento a sus herederos del paraje conocido con el nombre de los (cochiyunes a) S. Pablo, colindante con los Ranchos de S. Antonio del Pinole parte del Pto. de S. Francisco. Librese el despacho correspondiente, tomase rason en el libro respectivo y entreguese al Albaceer i heredero D. Joaquin, Isidro Castro po. los demas fines que son consiguientes i archivese el expediente. El S. D. Jose Figueroa General de Brigada, Comandante gral Inspector i gefe superior Politico del territorio de la Alta California osi lo mando decreto y firmo de lo que doi fe.

JOSE FIGUEROA.

FCO. DEL CASTILLO NEGRETE.

Scrio.

Jose Figueron, General de Brigada de la Republica Mejica na Comandante General Inspector i Gefe Superior Politico de la Alta California.

Por cuanto el Cno. Franco. Ma. Castro Mejicano pr. nacimiento ha pretendido pa. su beneficio personal y el de su familia el terreno conocido con el nombre de los cuchiyunes (a) Sn. Pablo cuyo terreno lo tiene consedido pr. la Ema. Don Territorial desde 15 de Abril, de 1823, colindante con los ranchos de San Antonio i el Pinole i parte al Puerto de Sn. Franco. i haviendome posteriormente solicitado sus

herederos la propriedad legitima pr. fallecemiento de Dn. Franco i ultimamente solicitado la ampliasion de poco mas de un sitio de ganado mayor, practicadas previamente los diligencias y aberiguaciones consernientes segun lo dispuerto pr. leyes y reglamentos usando de las facultades qe. me son conferidas pr. decreto de este dia i a nombre de la Nacion Mejicana he venido a conceder a dhos erederos de Dn. Franco. Ma. Castro el terreno mencionado declarandoles la propiedad de el pr. las presentes letras con entera conformidad a lo dispuerto pr. las leyes i en confirmacion de aquella consecion i bajo las condiciones siguientes.

1a. Que se someteran a las qe. estableciere el reglamento qe. se a de formar pa. la distribucion de terrenos valdios y qe. entre tanto ni los agraciados ni sus erederos podaan dividir ni enajenor el qe. se les adjudica: irreponer senso vinculo finusa hipoteca ni otro gravamen aunque sea pr. causa piadosa ni pasarlo a manos muertas.

2a. Podran cercarlo sus perjudicar las travesias caminos y servidumbres; lo disfrutaran libre y esclusivamente destinandolo al uso y cultivo qe. mas les acomode, po. dentro de un ano a lo mas fabricara casa i estara abitada.

3a. Solicitaran al Juez respectivo qe. les de posesion juridica en virtud de este despacho pr. el cual se demarcaran los linderos en cuyos limites pondran a mas de los mohomeras algunos arboles frutales o silvestres de alguna utilidad.

4a. El terreno de que se hase mencion es de cuatro sitios de ganado mayor poco mas, incluyendo la ampliasion qe. pr. decreto de catorce de Agosto, de este ano, se le concedido i segun esplica el diseno qe. corre en el espediente, i tienen concedidos. El jues qe. diese fa posesion le hara medir conforme a ordenanza po. senalor los linderos quedando el sobrante qe. resulte a la Nacion pr. los usos convenientes.

5a. Si contraviniese a estas condiciones perderan su derecho al terreno y sera denunciable pa. otro.

En consecuencia mando qe. sirviendoles de titulo el presente i teniendose por firme y baledero se tome razon de el en el libro qe. corresponde y se entregue a los interesados pa. su resguardo y demas fines.

Dado en Monterrey, a veinte de Agosto, de 1835.

JOSE FIGUEROA,

F. DEL C. N.,

Secretario.

Se le hizo saber al interesado presentose el titulo qe. poseia dado en 12 de Junio, del ano popo. de 34 lo que no verifico por habersele estraviado lo que ponzo por diligencia firmandolo con el interesado po. la debida constancia en Monterrei a 1o. de Diciembre de 1835.

Srio,

FCO. DEL CASTILLO NEGRETE.

JOAQUIN CASTRO. Mon.

Office of the Surveyor-General of the United States,
For California.

I, John C. Hays, Surveyor-General of the United States, for the State of California, and as such, having in my office, and in my charge and custody, a portion of the archives of the former Spanish and Mexican Territory, or Department of Upper California, by virtue of the power vested in me by law, do hereby certify, that the preceding and hereunto annexed pages of tracing paper, numbered from , inclusive, exhibit a true and accurate copy of an extract of nine pages of a document entitled "No. 29, Espediente promovido por Joaquin Isidro Castro solicitando la propiedad legitima del Rancho nombrado, Sn. Pablo, 18—," now on file, and forming part of the said archives in this office.

In testimony whereof I have hereunto signed my name and [SEAL.] caused my seal of office to be affixed, at the City of San Francisco, this eighth day of November, 185 .

(Signed) JOHN C. HAYS,
U. S. Surveyor-General for California.

Extract from the second section of the Act of Congress, providing for the Survey of Public Lands in California and for other purposes, approved March 3, 1853.

The Secretary of the Interior is hereby authorized to cause an official seal to be prepared for the office of the said Surveyor-General (California), and any copy or extract from the plats, field notes, and other records and documents on file in his office, when attested as such by the said seal and the signature of the Surveyor-General, shall, in all judicial matters, have the same force and effect as the original.

Indorsed: Filed November 9, 1854.

(Signed) JOHN A. MONROE,
Clerk.

Third Stamp, Two Reales.

Provisionally authorized by the Administration of the Custom-House, of Monterey, of Alta California, for the years 1834 and 1835.

(Signed) FIGUEROA.
(Signed) A. RAMIREZ.

Translation of the expediente, San Pablo Rancho.

Monterey, June 26th, 1835.

Let this petition be annexed to the expediente in the matter, and in view thereof, let the Secretary report that which is adduced to him, so as to determine upon what is proper.

(Signed) FIGUEROA.

Senor Superior Political Chief:

I, Joaquin Castro, resident of the jurisdiction of the Port of San Francisco, appear before your Honor with due respect, and say:

That, having made a petition to the Government of your Honor, asking for the proper concession of the Rancho of San Pablo, of which the heirs of my deceased father are in actual possession, as is set forth in my former petition, in which through inadvertency, I did not ask for the extension of land, which is comprehended in the accompanying plot, and only soliciting the three leagues which were formerly occupied; therefore, the land which we possess, being sufficiently reduced in proportion to the increased number of stock maintained on it, and inasmuch as there are strong necessities which arise every day for an enlargement of it, I solicit, in the name of the other heirs, as their attorney, that you entertain said petition for the three leagues which we occupied before, with the augmentation of land as is marked out in the above cited-plot:

Wherefore, I pray your Honor to be pleased to decree, as is petitioned for, whereby I will receive favor, making the necessary oath, &c.

(Signed) JOAQUIN ISIDRO CASTRO.

Monterey, June 23d, 1835.

Senor Superior Political Chief:

In compliance with your Honor's Superior preceding decree, I annex the following in connection with this espediente, in relation to what precedes and to which you refer, so that your Honor be pleased to determine upon what you may deem proper.

(Signed) FRANCO. DEL CASTILLO NEGRETE.

Monterey, June 26th, 1835.

Senor Superior Political Chief:

The measurement being made in the last preceding plat, marked with the number two, in order to reduce the inequality of its boundary lines to a right angled parallelogram, and thereby to square leagues (sitios de ganado mayor), there results, as is practically shown in the said plat, that in a course N. E. S. W. there are in length two leagues or seven hundred varas; and in a course N. W. S. E. there are two other leagues, less five hundred varas, in breadth, whereby results the difference of two hundred varas in length.

From the operations performed in the measurement, there results that the tract comprised within the boundary lines marked out in the plot in land, and along the sea, from the hill of San Antonio, running N. E. there is one league and five hundred varas full; from this point to the N. N. W., one league and one thousand and five hundred varas, and thence to the W. N. W. another league and one hundred varas more.

The boundary lines along the sea or in land being reduced to straight lines in the right-angled parallelogram, in making the measurement, there results that there is comprised within them a tract of four square leagues and a twenty-fourth part approximately, with-

out reckoning the inequalities of the land, which are not shown in plat No. 2, and are seen in plat No. 1, although without exactness, owing to the height of the hills not having been ascertained, an indispensable requisite to know with precision the dimensions of the land.

This is all I have to report in the matter complying with your Honor's superior decree.

(Signed) FRANCO. DEL CASTILLO NEGRETE.

Monterey, June 27th, 1835.

Monterey, August 14th, 1835.

In view of the petition which heads this espediente, of the grant obtained from the most Excellent Territorial Deputation, on the 15th of April, 1823, of the petition presented on the 23d of June of this year, asking for the augmentation of a little more than one square league, as shown in the plat No. 2, together with all that which was considered in conformity with the requirements of the laws and regulations on the matter; and declare D. Francisco Maria Castro owner in fee, and his heirs (owners) in case of his death, of the place known by the name of the Cochiyunes, alias S. Pablo, bounded by the Ranchos of San Antonio and the Pinol, and a portion of the Port of San Francisco. Let the corresponding patent issue, let a record thereof be made in the respective book, and let it be delivered to the Testamentary Executor, or heir, D. Joaquin Ysidro Castro, for such other purpose that may be proper; and let the espediente be filed in the Archives. The Sor. Dn. Jose Figueroa, Brigadier-General, Commandant-General, Inspector and Superior Political Chief of the Territory of Alta California, thus ordered, decreed, and signed, which I attest.

(Signed) JOSE FIGUEROA.

(Signed) FRANCO. DEL CASTILLO NEGRETE,
Secretary.

Jose Figueroa, Brigadier-General of the Mexican Republic, Commandant-General, Inspector and Superior Political Chief of Alta California.

Whereas, the citizen Franco. Ma. Castro, a Mexican by birth, has solicited for his personal benefit and that of his family, the land known by the name of the Cochiyunes, alias Sn. Pablo, which land, bounded by the Ranchos of Sn. Antonio and of the Pinole, and part of the port of San Francisco, he holds under a grant from the most Excellent Territorial Deputation, since the 15th of April, 1823; and whereas, by cause of the decease of Dn. Francisco, his heirs have subsequently asked for the legitimate ownership, and finally have petitioned for the augmentation of a little more than one square league, the necessary steps and investigations in relation thereto having been previously complied with, as is provided by the laws and regulations, in the exercise of the power which is conferred upon

me, by a decree of this day, and in the name of the Mexican nation, I do grant to said heirs of Don Franco. Ma. Castro the aforementioned land, declaring in them the ownership thereof by these presents, in entire conformity with the requirements of the laws and in confirmation of said grant, and under the following conditions:

1st. That they shall subject themselves to those (conditions) established by the regulation, and which may be made for the distribution of vacant lands; and that, in the meantime, neither the grantees nor their heirs shall be empowered to divide nor to alienate that (land) which is adjudged to them, to subject it to tax, entail, security, mortgage, nor to any other incumbrance, though it be for a pious purpose, nor they shall not pass it to mortmain.

2d. They may fence it in, providing they do not obstruct the cross-roads, roads, and servitudes; they may enjoy it freely and exclusively, putting it to the use and cultivation which may best suit them, but within one year at furthest, a house shall be built, and it shall be inhabited.

3d. They shall ask the respective judge to give them juridical possession by virtue of this patent, by which shall be marked out the boundary lines, at which limits they shall place, besides the landmarks, some fruit trees or forest trees of some utility.

4th. The land of which mention is made is a little more than four square leagues, including the augmentation, which, by decree of the 14th of August, of this year, was granted to them, and they now hold, as shown in the plat annexed to the espediente. The Judge giving the possession shall cause the same to be measured conformably to the ordinance, so as to mark out the boundary lines, leaving the surplus (sobrante) that may result therefrom to the nation for its convenient uses.

5th. If they contravene these conditions, they shall lose their right to the land, and it shall be subject to denouncement by another.

Therefore, I command that these presents, serving them as title, and being held as firm and valid, record thereof be made in the corresponding book, and that it be delivered to the interested parties for their security or other ends.

Given in Monterey on the 20th of August, 1835.

JOSE FIGUEROA.

FRANCISCO DEL CASTILLO N——,
Secretary.

The interested party was notified to present the title which he held, given on the 12th of June, of the year '34 last past, with which he did not comply, because he had mislaid it, and I report the same, signing this with the party interested for its due authentication, in Monterey, 1st of December, 1835.

(Signed) FRANCO. DEL CASTILLO NEGRETE.

(Signed) JOAQUIN CASTRO.

Indorsed.

Filed Nov. 9th, 1854.
(Signed) JNO. A. MONROE,
Clerk.

VICENTE PERALTA et al.
v.
The UNITED STATES. } No. 100.

Testimony taken in open Court, this 9th day of November, 1854.

Deposition of Thomas E. Evershed.

Thomas E. Evershed, having been duly sworn on the part of the U. S., deposes and says as follows:

I reside in San Francisco, and am one of the Archive Clerks in the U. S. Sur.-Genl. Office for California. I am one of those deputized to take charge of the former Mexican and Spanish Archives of the Government of California, and have those Archives in that office in my charge. The witness is here shown a book of toma de razon, or record entries for the years 1844 and 1845. It is in Spanish. This book is part of the Archives now in the office of the aforesaid Surveyor-General.

The paper now produced and marked Exhibit J. A. M., No. 1, annexed to this deposition, is an exact and literal copy from the said book, successively, as far as it goes. I have compared it with the original.

Cross-examined by Claimants' Counsel.

I do not know in whose handwriting is the Exhibit "J. A. M. No. 1," annexed to this deposition, or the original, of which it is a copy, but I heard Mr. Arce say that the said part of the book from which the Exhibit "J. A. M., No. 1" is taken, is in his handwriting.

The hearsay statement of Mr. Arce is objected to by claimants' counsel. Objection sustained by the Court.

Direct resumed.

The book is a bound book. The book is entire and does not appear to be mutilated. It contains a good stamp impressed on every leaf; the stamp contains the words "de oficio para bien de 1836 and 1837. So. 4°." It contains the Mexican Eagle also.

Cross-examination resumed.

There are great many grants in the Archives made in the years 1844 and 1845, of which no such entry or memoranda in the book from which the exhibit is a copy, appear. All the entries made in the year 1844 seem to be made in one handwriting, with the exception of the last three entries. All the entries in 1845 seem to be made in one handwriting. There is no signature to any of those entries by any officer. From all the papers in the office it appears

that Manuel Jimeno was Secretary of State in the year 1844, and I have never seen any papers or documents signed by any one else as Secretary of State.

Deposition of J. J. Warner.

J. J. Warner, having been duly sworn on the part of the United States, deposes and says:

I reside in San Diego. California, has been my permanent residence for the last 21 years. Witness is here shown the book mentioned in Mr. Evershed's deposition, and says, that nearly all the entries in said book made in the year 1844, are in the handwriting of Franco. Arce. In the month of November, 1844, Arce was First Clerk in the Office of Secretary of State for California. Manuel Jimeno, and I believe he had been in that situation for a year or more previous. If there was an Official Major in that office he would be the same as that I have designated as First Clerk. The entry designated in red ink, No. 205, dated 14th Feb'y, 1844, and commencing "Don Luis Peralta," is in the same handwriting as that I stated I believe to be of Arce. I was acquainted with Arce while in the office, and frequently saw him write. I frequently saw the records in the years from 1842 to 1846. There was generally a writing clerk in the office, by whom a considerable part of the writing was performed, both of records and documents issued to individuals.

Deposition of Thos. E. Evershed.

Thos. E. Evershed recalled by U. S. Attorney.

Mr. Evershed here produces a book called "Libro de Actas de la Exma Diputacion Ano de 1827," which book purports to be a portion of the proceedings of the Deputation for the year 1827, and is now of record in the Mexican Archives, in the U. S. Surveyor-General's Office of California, being a part of the Archives of the former Mexican Territory of California. The document marked Exhibit "J. A. M., No. 2, and annexed to this deposition" is a literal copy as far as it goes, of the original book aforementioned. I have compared it with the said original.

Deposition of John A. Hobart.

John A. Hobart, being called on the part of the U. S., and sworn on his voire dire, says, that he is administrator of the estate of John Choate, deceased, who died in Mass. That he is ordered by the Court to sell this pre-emption in a few days, and has an interest in the proceeds of the sale, as one of the creditors of said estate. Witness was objected to by counsel for claimants, which objection was overruled by the Court.

Witness sworn in chief.

I reside in Oakland Township, a few miles from Oakland, and have resided in California four years. Witness is here shown a map

marked "Exhibit No. 1, W. H. C.," which is attached to the deposition of M. G. Vallejo, taken in this case, and says, I am somewhat acquainted with the country and objects delineated on that map. I have travelled over it considerably, and am a surveyor by profession. I have made the calculation since I came in here, of the quantity and extent of land lying between the Arroyo del Indito and Arroyo San Leandro, and from the mountains to the shore of the bay, and from the best calculation I can make, I suppose it to contain 30,000 acres. I have been frequently over that tract, and am very familiar with it, except some portions of the mountains. In the encinal on the tract first described called the Encinal de San Antonio, including that whole neck of land so called, I should think there is about 2000 acres. Most of that tract is covered with a thick growth of oak. The other encinal on the north side of Arroyo del Indito, where the town of Oakland is, I should say contains about 1000 acres. This map appears to contain a correct representation of the county and objects which it purports to.

Cross-examined by Claimants' Counsel.

This map has no scale to it. My estimate of the quantity of land is made merely from having travelled over it. I have never known the creek alluded to as Indito, to be so called until about two years since. I know the location of the creek; it is usually called San Antonio Creek.

Deposition of Julius Chester.

Julius Chester, being called by the United States Attorney, and sworn on his voire dire, says, I am a settler upon the land claimed by the Peraltas, on a portion of the land included in the Encinal of San Antonio to the southward of the Arroyo del Indito. I claim a pre-emption under the laws of the United States. Court admits the evidence of the witness, who was then sworn in chief, and reserves the question for a decision as to the competency of the witness.

I have resided in California about three years. Witness is requested to look at the map annexed to the deposition of M. G. Vallejo, marked Exhibit No. 1, W. H. C. I am acquainted with the country represented in the map, with the exception of the extreme north of it; also am well acquainted with the objects represented on said map; I have been frequently over it. I have ridden over that part of the country included between the Arroyo del Indito and San Leandro almost daily for a year. From the head of the Bay of San Antonio, as represented on this map, to the Arroyo of San Leandro, about where the road is represented on this map to cross it, is a distance of about twelve miles, and from the said point of the bay to the mouth of the Indito Creek is a distance of about three miles, and from the mountain ridge to the bay I don't know.

Cross-examined by Claimant's Counsel.

I have never measured any of the distances I have first mentioned.

Counsel for claimants objects to the whole of the last deposition.

It is admitted by counsel for the respective parties, that the wife of Don Luis Peralta died subsequent to the year 1827 and previous to the year 1846, and before her husband. It is further admitted (subject to be corrected, should it turn out to be different), that the names of the children of Luis Peralta and Loreta, his wife, are Vicente, Domingo, Josefa, Guadalupe, Luisa, Trinidad, Teodora, Ygnacio, and Antonio Maria, all of whom are living except Teodora, who left children.

Exhibit J. A. M. No. 1.

J. A. M. No. 1. Annexed to the Deposition of Evershed.

[201] Don Mauricio Gonzalez en 7 de Fbro. de 1844 se le dio titulo del paraje llamado cholam, en estencion de seis sitios de ganado mayor poco menos.

[202] Don Esteban Smit en 8 de Febrero. de 1844, se le dio titulo del terreno de Bodega sugeto a los linderos de sus colindantes.

[203] Don Rafael Cacho en 12 de Febo. de 1844 se le dio titulo del paraje llamado San Jeronimo en estencion de dos sitios de ganado mayor.

[204] Don Timoteo Murphy en 14 de Febro. de 844 se le dio titulo del terreno nombrado Sn. Pedro y Sta. Margarita y las Gallinas en estencion de cinco sitios de ganado mayor poco menos.

(Place of a Stamp in the original, 1836–37.)

[205] Don Luis Peralta en 14 de Febrero de 1844 se le dio titulo del paraje de San Antonio en estencion de cinco sitios de ganado mayor.

[206] Inigo indigena de Santa Clara en 15 de Febrero se le dio titulo del paraje llamado Posalme en estencion de medio sitio poco mas o menos.

[207] Dn. Guillermo Welk en 20 de Febrero, se le dio titulo del paraje nombrado las Juntas en estencion de cinco sitios de ganado mayor.

[208] Tomas Cool en 28 de Febrero de 844, se le dio titulo de cuatrocientos varas a continuacion de las doscientas cincuenta vs. y cien de solar que se le concedieron anteriormente.

Surveyor-General, office of the.

Translation.

Translation of Exhibit J. A. M., No. 1, annexed to the Deposition of Thomas E. Evershed.

Don Maurice Gonzales, on the 7 of Feby., 1844, a title was issued to him for the place called Cholam, in the extent of six square leagues, a little less.

Mr. Stephen Smith, on the 8 of February, 1844, title was issued to him for the land of Bodega, subject to the boundaries of his neighbors.

Don Rafael Cacho, on the 12 of February, 1844, title was issued to him for the place called San Jeronimo, for the extent of two square leagues.

Mr. Timothy Murphy, on the 14 of February, 844, title was issued to him for the land called San Pedro, Santa Margareta, on the Gallinas, in the extent of five square leagues, a little less.

Don Luis Peralta, on the 14 of February, 1844, a title was given to him for the place called San Antonio, in the extent of five square leagues.

Ynigo, a native of Santa Clara, on the 15 of February, a title was given him for the place called Posaline, in the extent of half a league, little more or less.

Mr. William Welch, on the 20 of February, a title was given to him for the place called "Los Juntas," in the extent of five square leagues.

Mr. Tomas Cool, on the 28 of February, 844, title was given him for four hundred varas in continuation of the two hundred and fifty varas, and hundred of the house lot, which were formerly granted to him.

Filed in office August 17th, 1853.

(Signed) GEO. FISHER,
Secretary.

I, George Fisher, Secretary of the U. S. Board of Commissioners to ascertain and settle Private Land Claims in the State of California, do hereby certify that foregoing paper, styled "Translation of Record of Grants," in Case No. 96, wherein Juan Jose Castro et al. are claimants of a Sobrante of land, is a true and correct copy on file in the archives of said Board, now in my care and custody as such secretary.

Witness my hand, this twentieth day of February, 1854.

(Signed) GEORGE FISHER,
Secretary.

Exhibit J. A. M., No. 2.

J. A. M., No. 2, annexed to the Deposition of Thomas E. Evershed.

Session del 12 de Septiembre.

Leida y aprobada el acta anterior manifesto el Sor Presidente el Reglamento de Herraderos y Policia en los ganados modeficado conforme a su juicio le parecia mas en orden y habiendose discutido particularmente se aprovaron todos sus articulos en los terminos signientes.

Artº 1º. En el discurso de tiempo que falta para completo de este ano presentaran los Padres Ministros de las misiones al Govno Supor. del Territorio una relacion de las tierras que ocupan las reducciones de su cuidado espre sando en ella sus linderos la extension de tierras de regadios de temporal y de alrevadero, y tambien se compren den algun bosque y que arroyos o aguajes los riegan.

Artº 2º. Ygualmente presentaran la misma relacion la Comisaria de Monterrey y las havilitaciones encar gadas de rentas con respeto a los Ranchos Nacionales y sitios de caballada.

Artº 3º. Los Ayuntamientos y todo individuo poseedor de sitios, por lo relatiovos a sus pertenencias tambien presentaran la relacion referida agregando los titulos de sus possessiones o fundamentos que tengan para la ocupacion de ellos.

Artº 4º. En el discurso de tiempo que cita el articulo primero todos los fierros que se usen para distinguir los ganados sean cuales fueren se presentaran estampados en una oja de papel a dicho Govno. y enpresaran el numero de cada especie de ganado que tenyan.

* * * * * * * * * * *

Translation.

Translation of Exhibit J. A. M., No. 2, annexed to the Deposition of Thomas E. Evershed.

Session of the 12th of September.

The preceding minutes read and approved, the President presented the regulation on branding and police of cattle modified, as in his judgment appeared most proper, and having been particularly discussed, all of its articles were approved in the following manner: —

Article 1st. In the course of time, which is wanting to the completion of this year, the Fathers, Ministers of the Mission, shall present to the Superior Government of the Territory a statement of the lands which the Convents under their charge occupy, describing therein their boundaries, the extent of lands of irrigation dependent on the seasons, and of watering-places, and also if they include any grove and what brooks or springs water them.

Article 2d. In like manner the Commissary of Monterey, and the

establishment charged with rent shall present the same statement with respect to the national farms and the stations for horses.

Article 3d. The Town Councils (Ayuntamientos) and every individual occupant of lands (sitios) in relation to his property (protenencias) shall also present the statement referred to, annexing thereto the title to his possessions or the authority which he may have for occupying them.

Article 4th. In the course of time, mentioned in the first article, all the brands which may be used to mark cattle, of whatever kind, shall be presented stamped upon a leaf of paper to said government, and they shall state the number of every species of animals which they may possess.

I, George Fisher, Secretary to the United States Land Commission to ascertain and settle the private land claims in the State of California, hereby certify that the foregoing is a true and correct copy of a document in Case No. 96, wherein Juan Jose and Victor Castro claim the tract of land called "Sobrante," now on file in this office.

In testimony whereof, I have hereunto signed my name, office of the Secretary of the above-named commission.

San Francisco, this 13th day of February, A. D. 1854.

(Signed) GEO. FISHER,
Secretary.

Indorsed.

Filed November 9th, 1854.

(Signed) JOHN A. MONROE,
Clerk.

Deposition of A. W. Van Schmidt.

United States Land Commission.
San Francisco, January 19, 1854.

On this day, before Commissioner Thompson Campbell, came Allexey W. Van Schmidt, a witness in behalf of the claimants, Juan Jose Castro and Victor Castro, case No. 96, who, after being duly sworn, deposed as follows:

What is your name, age, place of residence, and present occupation?

My name is Alexy W. Van Schmidt, I am thirty years of age, I reside in San Francisco, and I am the United States Deputy Surveyor.

Did you make a survey and map of certain lands bordering on the eastern shore of the Bay of San Francisco, and claimed as belonging to the children of Luis Peralta, deceased; if so, when and by whose order was said survey made?

I made this survey by the order of the Surveyor-General, some time in the year 1852. The principal point I regarded in making this survey, was the mouth of the Creek San Leandro where it enters

the Bay of San Francisco, thence in a northwesterly direction following the coast of the bay to the cerrito on its north side, thence following up a small arroyo eastward, passing to the southern of Victor Castro's house about 4 chains, thence continued and struck the creek again on the other side of the field, and passing to the north of a large rock some fifty or sixty feet in height, standing in the form of a pyramid, thence up this same arroyo to its source, and crossing the first ridge thence to the ridge beyond, thence continued on the top of main ridge through Redwoods in a southerly direction to the Creek San Leandro, thence following the San Leandro down to the place of beginning.

By what instructions were you guided in assuming these lines of boundary?

I was guided by a translation of the papers under which Peralta claims said tract of land, furnished me by the Surveyor-General.

When you were engaged in surveying the northern portion of this tract, did you have any communication respecting the boundary with either of the Peraltas, or with Victor or Juan Jose Castro?

Yes, I had; Domingo Peralta accompanied me to point out such portions of the line which were not clearly pointed out by the documents; we were instructed by the Surveyor-General to notify all persons interested in the running of those lines, which I did. I notified Mr. Victor Castro by letter on passing near his house. I informed him in person that if he had any objection to the running of the Peralta line, to state what it was; at first he did not seem disposed to regard the survey of any importance to him. I then read the instructions of the Surveyor-General, after which he pointed out his line as he claimed, which is marked down on the map made by me as claimed by Victor Castro. The line thus pointed out commenced on the highest peak in sight, in an easterly direction from Castro's house, and thence running down in the direction of the bay, striking the Cerrito of San Antonio nearly on its southern side, at which there are some large white-looking stones, thence to bay. I think this southern line passes about half a mile south of Victor Castro's house.

Who were present when Victor Castro pointed the line, as you have above stated?

Of my party Mr. Cormen was present, and the gentleman who was with Mr. Castro, I do not know his name. Mr. Castro spoke English very well, and Mr. Cormen, who was with me, spoke Spanish, and the other gentleman spoke English and Spanish.

What communication had you with Peralta on this occasion?

He merely stated that he claimed to this arroyo, near Victor Castro's house.

What is about the direct distance from the southernmost point of the San Leandro Creek on this point, to the northernmost point near Victor Castro's house?

I don't know. From the mouth of the Creek San Leandro along the coast, is about twelve miles and a half, within a fraction, which is equal to about five Spanish leagues. I estimate the Spanish league at two miles and $\frac{69}{100}$.

Questions by Attorney for Claimants.

When you say that you made the mouth of the San Leandro Creek where it enters into the bay the principal point in your survey, do you mean the mouth of the brook San Leandro, or of the estuary San Leandro?

I mean the delta of the creek with the bay. I mean by this that I started from the point where the deep waters of the bay begin, where boyes can float.

Do you know the meaning of the Spanish Arroyo?

I believe I do. I think it means a brook or small creek.

Is not the brook San Leandro at its most conspicuous part, and near where the principal highway crosses, one, two, or three leagues further from the Cerito by Victor Castro's than the point where you commenced your survey is from the same place?

To the best of my recollection, not having a map at hand, I believe it to be about one league further.

When you speak of the distance from your initiatory point of survey to the Cerrito, do you mean in a straight line?

No, sir. I mean the meandering of the coast.

When you run the northern boundary-line for the Peraltas, did you run it through a large cultivated field of Victor Castro's?

I did run it through a cultivated field near Victor Castro's house. I presume it was his.

Are there not along the line of the hills between San Pablo and San Leandro at least fifty pyramidical rocks?

I have never seen but one. I saw many large boulders.

Did not Victor Castro, in pointing out the line mentioned by you as claimed by him, state that that was the line to which the Peraltas had been in the habit of claiming?

No, sir. This line was pointed out by him to me as the point to which he claimed.

By whom were you employed and paid to make said survey?

By Mr. Caperton, Cost and Irving, on the part of Peraltas.

Re-examined by Associate Law Agent.

To whom did you report your proceedings, and to whom were you responsible for this correctness?

To the Surveyor-General of the United States for California.

Question by Attorney for Claimant.

Are not the two oak groves known as the ensinal of San Antonio

and the Ensinal of Temascal, two amongst the most conspicuous landmarks on that side of the bay?

They are conspicuous, it is true, but not as endurable as the mouth of a creek or the peak of a mountain. I know the groves referred to, but never knew by said names.

Sworn to and subscribed before me, this 19th day of January, A. D. 1854.

(Signed) THOMPSON CAMPBELL,
Commissioner.

I, George Fisher, Secretary to the Board of the United States Land Commission for ascertaining and settling private land claims in the State of California, do hereby certify that the foregoing is a full, true, and correct copy of a Deposition taken and filed in case No. 96 on the docket of the said Board, now in this office.

In testimony whereof I have hereunto subscribed my name. Office of the Secretary of said Commission, San Francisco, State of California aforesaid, this 8th day of November, A. D. 1854.

(Signed) GEO. FISHER,
Secretary.

Indorsed.

Filed November 9th, 1854.

(Signed) JNO. A. MONROE,
Clerk.

Communicate from Secretary of Land Commission.

Office of the Board of Commissioners, &c. &c.
San Francisco, Nov. 17th, 1854.

John A. Monroe, Esq.,

Clerk of the U. S. District Court, for the Northern District of California.

Sir: Accompanied herewith, I transmit you, under the direction of this Board, a transcript of a document, being a part and parcel of the transcript in case No. 4, Vicente Peralta et al., for the place named "San Antonio," filed with you on the 23d Sept. last, for the purpose of filing the same as a part of the said transcript, in case No. 4, heretofore filed as above specified.

I am respectfully your obedient servant,

(Signed) GEO. FISHER,
Secretary.

Indorsed.

Filed Nov. 17th, 1834.

(Signed) JOHN A. MONROE,
Clerk.

Last Will and Testament of Luis Peralta.

En el nombre de la Santisima Trinidad Padre. Hijo y Espiritu Santo, tres personas distinctas y un solo Dios verdadevo: y en pre-

sencia de la Santisima Virgen Maria mi Senora del Glorioso Arcangel San Miguel San Gabriel y San Rafael angel de mi guarda y custodia y devocion.

Yo Luis Maria Peralta hallandome en mi entero juicio y entendimento; aunque en una edad avanzada. Y como esta vida mortal es tan encierta. Dispongo este mi testamento en la mejor forma y lo declaro por mi ultima voluntad y testamento y es conforme signe.

En primer lugar mando a mis hijos varones le den sepultura a mi asqueroso cadaver en la contigua Mision de Santa Clara; llevandole a la Iglesia, possiendole en los mismas andas en que ponen a mis proximos los Indios y se manden decir una misa resada de Cuerpo presente y despues para sepultarle se digun para sufragio de mi alma todos los responsos resados que sea posible, los que pagaran mis hijos juntamente con la misa y despues separaran a dor cumplimiento a este mi ultimo testamento y es como signe.

Primeramente. Dejo la Casa de mi residencia en este Pueblo de San Jose Guadalupe con la Huerta de Arboles todo el Terreno que le toca y pertenece, y todo lo demas del terreno contiguo a la dicha Casa juntamente con todo lo que anexo sea a esta propiedad a favor de mis dos hijas Maria Josefa Peralta y Maria Guadalupe Peralta en plena propiedad y dominio. Y encargo a estas hijas se mantengan siempre juntas en buena paz y union disfrutando de esta finca de communidad las dos, como duenas absolutas de ella.

Mas digo con particularidad que todo lo que hay en esta Casa es mi propiedad y en tal concepto dejo todo ello a mis dos enunciadas hijos, siendo la Imagen del Senor San Jose y N. S. de Guadalupe para mi dicha hija Maria Guadalupe y el Santo Cristo la dolorosa para mi citada hija Maria Josefa.

Item. Mando a estas dos hijas que se mantengan en paz disfrutando de la propiedad que les dejo; pero si por casamiento a otro motivo quisiese alguna separase de la otra bien pueden las dos [2] convenirse para esto y cualquiera otra disposicion de sus negocios domesticos a de su propiedad de la que ellas quedan duenas y senoras sin que nadie pueda estorbarlos jamas; y que permanezcon siempre juntas, sirviendose de Angel de la guardia, la una para la otra para que Dios N. S. las guarde de los Tempesta des del mundo y toda persona mal intencionada. Y en cuanto a los bienes de Campo que me pertenecen esto es el Ganado, digo que cando se casaron mis hijos Maria Teodora, Ignacio Domingo y Trinidad, se les dio a cada uno dos vacas paridas por estos al principio la cria del ganado, pero despues se les dio mas ganado como ellos mismos pueden decir, pues saben decir la verdad. Tambien se le entrego en el ano de 1831, a Guillermo Castro dos cientas y trienta cabezas de ganado major que tocaron a su muger Maria Luisa Peralta mi hija. Tambien vuelvo a repetir que se ha dado a Maria Teodora y Maria Trinidad mis hijas, dos cientas Cabezas de Ganado a cada una, a mi hijo Ignacio se le dio tres cientas cabezas de Ganado. Y amas de las que se le ha dado a mi hijo

Domingo en otros ocasiones, mando que se le de lien Cabezas de ganado. Asi mismo mando que del ganado que hay en San Antonio como en el Temascal que se reconoce ser mio, se les dara a mis dos hijas Maria Josefa y Maria Guadalupe, dos cientas cabezas a cada una y lo que queda restante en el Temascal queda a favor de mi hijo Vicente y el que quedara restante en San Antonio queda a favor de
[3] mi hijo Anto. Maria. Del ganado de estas dos hermanas Maria Josefa y Maria Guadalupe tendrian cusidada los mencionados herma nos sin embargo de que les tengo senalados a estos sus respectivos terrenos.

Declaror que estos terrenos comprehenden toda mi propiedad del Rancho de San Antonio suyos titulos de consecion y posesion estan en poder de mi hijo Ignacio y cuyo terreno he repartido ya como donacion *inter vivos* a la entera satisfaccion de mis hijos varones, a quienes hice otra donacion y que ahora ratificio por el presente Declaro que no debo nada a nadie y que me debe Nasario Berreyeza o sus susesores quince pesos hase muchos anos.

Nombro por primer Albacea de este mi testamento a mi hijo Ignacio Peralta y mi hijo Antonio Maria Peralta por segunda Albacia para que agudados de los demas den cumplimiento a todo lo que dejo mandado en fin mando que todos mis hijos, se mantenzan en paz socoruendose unos a otros sus necesidados disfrutan do en paz lo poco que Vuestro padre os deja deponiendo toda codicia ambeciosa sin andar con diferencia por uno ni dos veceros pues las vacas paran todos los anos como el terreno es tan angosto es indispensable que los ganados se dejen juntas por lo que mando a mis hijos tengan buena union, ultimamente mando a todos mis hijos i hijas se mantenzan y crian a sus hijos en el Santo temor de Dios, dandoles buen ejemplo y apostandoles de toda mala compania para que Dios Nuestro Senor les eche su benediccion la misma que yo les dejo en el nombre del padre y del hijo y del Espiritu Santo. Amen.

Y declaro que este es mi ultima voluntad y testamento dictado por mi mismo y escrito en mi presencia leido y firmado por mi mismo, y por el presente revoco y anulo todo otro Testamento o testamentor, Codicilio o Codicilios que yo haya otorgado y los doy por nulos y ningun valor en juicio y fuera de el, en fe de lo cual he firmado este hoy veinte y nueve de Abril de mil ochocientos cincuenta y uno, en la Ciudad de San Jose y en presencia de los testigos que he llamado para que sirvan como testigos de esta mi ultima voluntad.

[4] LUIS MA. PERALTA.

Como testigos,
DIEGO ALEXANDER FORBES,
PADRE JUAN NOBILE, S. J.
DOMO. DAVINI.

State of California, County of Santa Clara.

This day the within last will and testament of Luis Peralta, which is herewith annexed, was produced to me, J. W. Redman, ex-officio

Probate Judge of said County, and two of the subscribing witnesses, to wit, J. A. Forbes and John Nobile, and being by me duly sworn, saith, that they were personally present together with the other subscribing witness, and that the same was signed by the testator in their presence, and that the contents of said will was fully understood by said deceased, and that the said deceased was of sound and disposing mind, and of his accord executed the same.

Sworn and subscribed to before me this 9th day of September, 1851.

J. W. REDMAN,
Ex-officio Probate Judge.

JAS. ALEX. FORBES,
PE. JOHN NOBILE, S. J.

Done in chambers, the day and date above, at the County of Santa Clara. In the matter of the estate of Luis Peralta, deceased. In vacation, September 17, 1851.

Now, on this 17th day of September, 1851, comes Ignacio Peralta, with the will of the deceased Luis Peralta, and two of the subscribing witnesses, to wit, J. A. Forbes and John Nobile, and being duly sworn, saith, that they were personally present together with the other subscribing witnesses, and that the same was signed by the testator in their presence, and that the contents of said will [5] was fully understood by said deceased, and the said deceased was of sound and disposing mind, and of his accord executed the same.

It is, therefore, ordered by the Probate Judge, that the said will be and the same is hereby admitted to probate, filed and recorded, and that letters testamentary issue to Ignacio Peralta, which is now here done, and the said Ignacio Peralta files this bond in the sum of five thousand dollars, with James A. Forbes and Peter Davidson as securities.

State of California, County of Santa Clara.

I, John B. Henson, County Clerk of Santa Clara County, and ex-officio Clerk of the Probate Court of said County, do hereby certify that the foregoing pages, numbering from one to five inclusive, contain a true, full, and complete transcript of the original will of Luis Maria Peralta, deceased; the testimony and certificate of the proof thereof, and the order of the probate judge admitting said will to probate, as taken from the records of the Probate Court aforesaid.

In testimony whereof, I have hereunto set my hand and [SEAL.] affixed the seal of said Court, this 26th day of November, A. D. 1853.

JOHN B. HENSON,
Clerk.
By LEVI P. PECK,
D. C.

Clerk's fees, $8 50.
Filed in office Aug. 9th, 1853.
(Signed) GEORGE FISHER,
Secretary.

Office of the Board of U. S. Land Commissioners to ascertain and settle the Private Land Claims in the State of California.

I, George Fisher, Secretary to the Board of Commissioners to ascertain and settle the private claims in the State of California, do hereby certify, that the foregoing five pages, numbered from one to five, both inclusive, to contain a true, correct, and full transcript of a document filed in Case No. 4, Vicente Peralta et al., claimants, *versus* the United States, for the place named San Antonio, and constituting one of the documentary evidences, and a part and parcel of the transcript in the said case filed with the Clerk of the United States District Court for the Northern District of California, on the 23d day of September, A. D. 1854, which document was omitted in the said transcript by a clerical error, and is now filed as an addendum to the said transcript.

In testimony whereof, I hereunto set my hand and affix my private seal (not having a seal of office), at San Fran-
[SEAL.] cisco, California, this 16th day of November, A. D. 1854, and of the Independence of the United States of America the seventy-ninth.

(Signed) GEO. FISHER,
Secretary.

Indorsed.

Filed Nov. 17, 1854.
(Signed) JOHN A. MONROE,
Clerk.

Decree.

DOMINGO AND VICENTE PERALTA
v.
THE UNITED STATES.

In the District Court of the United States for the Northern District of California.

This cause coming on this day to be heard upon the petition and answer, the certified transcript of the proceedings and decision of the Board of Commissioners on private Land Claims in California, and of the papers and evidence on which the same are founded, and upon the further evidence taken by the order of this Court, and was argued by counsel. In consideration whereof, the Court doth adjudge, order, and decree, that the claim presented in the petition filed in this case, for the place called San Antonio, is valid to the whole extent of its bounds, to wit, having for its northern boundary a line commencing on the Bay of San Francisco, at a point where there are close to the said bay the two cerritos, as described in the first possession given by Martinez to Luis Peralta, on the 16th of August, 1820, running from the said bay eastwardly along by the southern

base of the cerritos of San Antonio up a ravine, at the head of which there is a large rock or monument looking to the north, described in evidence as the Sugarloaf Rock; thence by the southern base of said rock to the comb or crest of the coast range of mountains or the Sierra; thence for the western boundary a line running along the comb of the said sierra, until it reaches the eastern extremity of a line, beginning on the said Bay of San Francisco at the mouth of the deep creek of San Leandro, and running eastwardly up the said creek to its head or source in the Sierra, and to the comb or crest thereof, which last line is the southern boundary of the land of San Antonio; and by the said Bay of San Francisco, from the mouth of the said deep creek of San Leandro up to the beginning of the said line, which has been described as the northern boundary of said tract, which line along the bay constitutes its western boundary.

And it is hereby further adjudged, ordered, and decreed, that there be confirmed to the said Domingo and Vicente Peralta the northern portion of said land of San Antonio, bounded as follows: On the north by the northern boundary of said tract of San Antonio as above described, on the east by the comb of the said Sierra, on the west by the Bay of San Francisco, and on the south by a ravine a short distance south of the buildings in the town of Oakland, on the north of which ravine there is a small house in sight of the public road, being the line of division between this land and the land of Antonio Peralta, which line extends from the said bay to the most eastern boundary of the Rancho of San Antonio.

(Signed) ISAAC S. K. OGIER,
United States District Judge for the Southern District of California, stitting in the Northern District, pro tem.

Indorsed.

Filed January 26th, 1855.
(Signed) JOHN A. MONROE,
Clerk.

Order granting Appeal.

At a Special Term of the District Court of the United States of America, for the Northern District of California, held at the court-house, in the City of San Francisco, on Friday, the 26th day of January, in the year of our Lord one thousand eight hundred and fifty-five.

Present, the Honorable I. S. K. Ogier, District Judge.

THE UNITED STATES, Appellants,
v.
DOMINGO & VICENTE PERALTA, Appellees.

On motion of A. Glassell, acting District Attorney of the United States, and for an appeal from the decision rendered herein to the

Supreme Court of the United States, it is ordered by the Court that said motion be granted.

Indorsed.

Filed January 26, 1855.
(Signed) JOHN A. MONROE,
Clerk.

Appeal.

To the Honorable, the Supreme Court of the United States.

THE UNITED STATES, Appellants,
v.
VICENTE PERALTA & DOMINGO PERALTA.

The Appeal of the United States, the above appellants, by A. Glassell, acting District Attorney of the United States for the Northern District of California, respectfully shows, that on the day of , A. D. 1851, the above-named appellees filed their claim before the Board of Commissioners for ascertaining and settling the private land claims in the State of California, under the Act of Congress of March 3d, 1851, praying for their confirmation of said claim.

That a final decree was made by said Board of Commissioners, wherein it was in substance adjudged, that the said appellees had not a good and lawful title to all of the lands described in said claim.

That after such final decree, the said cause, together with the said decree, and all the pleadings, proceedings, depositions, and evidence therein, was duly certified, and removed into the District Court of the United States for the Northern District of California, and an appeal in all respects duly taken from the said Board of Commissioners to the said District Court. And the said cause being removed into the said District Court, and issue being joined upon the petition filed in the said Court by the said appellees, and the answer of the said United States by the District Attorney of the United States, the said cause was tried anew upon the said pleadings, and the pleadings and evidence removed from the said Board, as aforesaid; and such further evidence as was taken by order of the said District Court, and such proceedings were thereupon had in the said District Court, that afterwards, to wit, on the 26th day of January, A. D. 1855, the said District Court made a final decree, whereby it was in substance adjudged, that the said appellees have a good and valid title for the place called San Antonio, to the whole extent of its boundaries, particularly set out in the said decree of the said District Court, which said decree of the said District Court is, as the said District Attorney of the United States believes, erroneous, and ought to be reversed.

Wherefore the said District Attorney, in behalf of the said United

States, appeals from said decree of the said District Court to the Supreme Court of the United States, and respectfully prays, that the said decree of the said District Court, and all the pleadings, evidence, and proceedings in the said cause may be sent to the Supreme Court of the United States without delay; and that the said Supreme Court will proceed to hear the said cause anew, and that the said District Court may be reversed, and a decree made rejecting the said claim, with costs against the said appellees; or such other decree as to the said Supreme Court shall seem just.

(Signed) A. GLASSELL,
Acting District Attorney of the United States of America.

San Francisco, January 26, 1855.

Indorsed.

Filed January 26, 1855.
(Signed) JOHN A. MONROE,
Clerk.

Office of the Attorney-General of the United States,
Washington, 17th January, 1855.

VICENTE PERALTA et al.
v.
THE UNITED STATES. } 4.

You will please take notice, that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California in favor of the claimants, and a transcript of the proceedings in which was received at this office on the 13th day of September, 1854, the appeal in the District Court of the United States for the Northern District of California, will be prosecuted by the United States.

C. CUSHING,
Attorney-General.

Indorsed.

Filed February 20, 1855.
(Signed) JOHN A. MONROE,
Clerk.

United States of America, Northern District of California.

I, John A. Monroe, Clerk of the United States District Court for the said district, do hereby certify that the annexed pages, from one to two hundred and fifty-six, inclusive, contain a full, true, and correct transcript of the record on file from the Board of Land Com-